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Regulations and Non-Regulatory Revisions to State Implementation Plan: Washington

Atlantic Environmental Associates, Inc.
Waltham, MA

Prepared for

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Regulations and Non-Regulatory Revisions to State Implementation Plan: Washington

By

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EPA Project Officer: Willis P. Beal

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16. ABSTRACT

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA-approved State and/or local air pollution control regulations cited by reference in the Federal Register; regulations promulgated as of August 1, 1981 have been included in this document.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979. State and/or local air quality regulations which have not been Federally approved as of August 1, 1981, are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations. A summary sheet of the regulatory revisions is provided to give a quick historical assessment of the changes.

The second part of the document contains the text of non-regulatory SIP revisions approved by EPA up to August 1, 1981, excluding notices or certifications of public hearings and technical support data. A complete tabulation of these revisions is also provided.

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PREFACE

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA approved State and/or local air pollution control regulations cited by reference in the Federal Register; all regulations Federally promulgated as of August 1, 1981 have been included.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979.* State and/or local air quality regulations which have not been Federally approved as of August 1, 1981 are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State or local agencies to enforce such regulations.

This document is not intended to provide a tool for determining the enforceability of any given regulation. Rather, it is intended to provide a comprehensive compilation of those regulations which are incorporated by reference into Title 40, Part 52, of the Code of Federal Regulations (CFR). The exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation in this document does not, in itself, render the regulation enforceable by either the State or EPA.

The regulations have been organized in this document according to the official State/local agency format. However, since State air quality regulations vary widely in their organization, content, and language, a standardized subject index has been added. The index listings consist of both pollutant and activity oriented categories to facilitate usage. For example, regulations which apply to copper smelters may be found under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State are not included herein but can be found under Title 40 Code of Federal Regulations, Part 52.

Additionally, a summary sheet of the regulatory revisions is included to provide a quick historical assessment of the changes. These summary sheets contain the date of submittal to EPA of each revision and the Federal Register publication date on which the revision was approved by EPA. A brief description of the regulation which was submitted is also included.

In accordance with the Act, the second part of the document contains non-regulatory SIP revisions approved by EPA up to August 1, 1981. All approved non-regulatory revisions listed under Identification of Plan in the CFR are included except notices or certifications of public hearings, and technical support data. Non-regulatory submittals which have only received EPA approval on selected elements are included in their entirety with an accompanying indication of the status of Federal actions on the non-approved elements. The non-regulatory revisions have been organized in this document according to the date of publication of EPA approval in the Federal Register. For historical completeness, a complete tabulation of these revisions is provided at the beginning of this second section.

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* Regulations and Non-Regulatory Revisions to State Implementation Plan: Washington, EPA-450/2-80-054, prepared under Contract 68-02-3388, July 31, 1980.

SUMMARY OF
EPA-APPROVED REGULATORY REVISIONS TO STATE OF WASHINGTON SIP
BETWEEN JULY 1, 1979 AND JULY 31, 1981

Publication of Approval	Submittal Date	Page	Document Description
06/05/80	04/27/79	45FR37835	Plan for attainment and maintenance of national ambient air quality standards. Regulation 173-400, 425, 490; 18-06, 16, 24; Local regulations.
07/31/80	04/01/80	45FR50751	Revised regulations for Kraft and Sulfite pulping mills and primary aluminum plants. Regulations 173-405, 173-410, 18-52.

TABLE OF CONTENTS

STATE REGULATIONS

Revised Standard Subject Index	Regulation Number	Title	Page
(2.0)	Chapter WAC 173-400	General Regulation For Air Pollution Sources	1
(2.0)	WAC 173-400-010	Purpose	1
(2.0)	WAC 173-400-020	Applicability	1
(1.0)	WAC 173-400-030	Definitions	1
(50.0)	WAC 173-400-040	General Standards For Maximum Permissible Emissions	8
(51.9)	WAC 173-400-050	Minimum Emission Standards For Combustion and Incineration Sources	13
(50.1.1)	WAC 173-400-060	Minimum Emission Standards For General Process Sources	13
(50.0)	WAC 173-400-070	Minimum Standards For Certain Source Categories	13
(11.0)	WAC 173-400-075	Emissions Standards For Sources Emitting Hazardous Air Pollutants	16
(6.0)	WAC 173-400-080	Compliance Schedules	16
(2.0)	WAC 173-400-090	Sensitive Area Designation	18
(3.0)	WAC 173-400-100	Registration	18
(10.0)	WAC 173-400-110	New Source Review	20
(10.0)	WAC 173-400-115	Standards of Performance for New Stationary Sources	23
(9.0)(13.0)	WAC 173-400-120	Monitoring and Special Report	24
(15.0)	WAC 173-400-130	Regulatory Actions	29

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Regulation Number	Title	Page
(2.0)	WAC 173-400-135	Criminal Penalties	30
(2.0)	WAC 173-400-140	Appeals	30
(5.0)	WAC 173-400-150	Variance	31
(2.0)	WAC 173-400-160	Maintenance of Pay	31
(2.0)	WAC 173-400-170	Requirements For Boards and Director	31
(51.14)	Chapter WAC 173-405	Kraft Pulping Mills	33
(2.0)	WAC 173-405-011	Statement of Policy and Purpose	33
(1.0)	WAC 173-405-021	Definitions	33
(50.0)	WAC 173-405-031	Specific Emission Standards	37
(51.14)	WAC 173-405-033	Standards of Performance	38
(51.14)	WAC 173-405-036	General Emission Standards and Nuisance Control Measures	38
(51.14)	WAC 173-405-061	More Restrictive Emission Standards	38
(9.0)(13.0)	WAC 173-405-071	Monitoring and Reporting	39
(51.14)	WAC 173-405-077	Abnormal Operations or Upset Conditions	40
(2.0)	WAC 173-405-101	Exemption	41
(51.14)	Chapter WAC 173-410	Sulfite Pulping Mills	42
(2.0)	WAC 173-410-011	Statement of Policy and Purpose	42
(1.0)	WAC 173-410-021	Definitions	43
(51.14)	WAC 173-410-031	Specific Emissions Standards	47
(51.14)	WAC 173-410-036	General Emission Standards and Nuisance Control Measures	48
---	WAC 173-410-041	More Restrictive Emission Standards	48

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Regulation Number	Title	Page
(2.0)	WAC 173-410-051	Compliance	50
(9.0)(13.0)	WAC 173-410-061	Monitoring and Reporting	50
(7.0)(13.0)	WAC 173-410-067	Abnormal Operations or Upset Conditions	52
(31.0)	WAC 173-410-071	Emission Inventory	53
(10.0)	WAC 173-410-086	New Source Review	53
(15.0)	WAC 173-410-091	Exemptions	56
(51.13)	Chapter 173-425 WAC	Open Burning	57
(2.0)	WAC 173-425-010	Purpose	57
(2.0)	WAC 173-425-020	Applicability	57
(1.0)	WAC 173-425-030	Definitions	57
(8.0)	WAC 173-425-035	Episodes	58
(51.13)	WAC 173-425-045	Prohibited Materials	58
(2.0)	WAC 173-425-055	Exceptions	59
(51.13)	WAC 173-425-065	Residential Open Burning	59
(51.13)	WAC 173-425-075	Commercial Open Burning	60
(51.13)	WAC 173-425-085	Agricultural Open Burning	61
(51.13)	WAC 173-425-095	No Burn Area Designation	62
(51.13)	WAC 173-425-100	Delegation of Agricultural Open Burning Program	63
(51.13)	WAC 173-425-115	Limited Outdoor Burning	63
(51.13)	WAC 173-425-120	Department of Natural Resources - Smoke Management Plan	65

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Regulation Number	Title	Page
(2.0)	WAC 173-425-130	Notice of Violation	66
(2.0)	WAC 173-425-140	Remedies	66
(51.13)	Chapter 173-430 WAC	Burning of Field and Turf Grasses Grown for Seed	67
(2.0)	WAC 173-430-010	Policy and Purpose	67
(1.0)	WAC 173-430-020	Definitions	67
(6.0)	WAC 173-430-030	Compliance Program	68
(51.13)	WAC 173-430-040	Mobile Field Burners	69
(2.0)	WAC 173-430-050	Other Approvals	69
(8.0)	Chapter 173-435 WAC	Emergency Episode Plan	70
(2.0)	WAC 173-435-010	Purpose	70
(1.0)	WAC 173-435-020	Definitions	70
(8.0)	WAC 173-435-030	Episode Stage Criteria	71
(8.0)	WAC 173-435-040	Source Emission Reduction Plans	73
(8.0)	WAC 173-435-050	Action Procedures	74
(15.0)	WAC 173-435-060	Enforcement	74
(50.4)	Chapter 173-490 WAC	Emission Standards and Controls for Sources Emitting Volatile Organic Compounds	76
(2.0)	WAC 173-490-010	Purpose	76
(1.0)	WAC 173-490-020	Definitions	76
(2.0)	WAC 173-490-025	Applicability	78
(3.0)(13.0)	WAC 173-490-030	Registration and Reporting	78

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Regulation Number	Title	Page
(6.0)	WAC 173-490-040	Requirements	79
(6.0)	WAC 173-490-070	Schedule of Control Dates	88
(2.0)	WAC 173-490-080	Exceptions	90
(10.0)	WAC 173-490-090	New Source Review	90
(6.0)	WAC 173-490-120	Compliance Schedules	90
(15.0)	WAC 173-490-130	Regulatory Actions	90
(15.0)	WAC 173-490-135	Criminal Penalties	91
(2.0)	WAC 173-490-140	Appeals	91
(5.0)	WAC 173-490-150	Variance	91
(12.0)	Chapter 18-24	State Jurisdiction Over Motor Vehicles	92
(2.0)	WAC 18-24-010	Statement of Purpose and Applicability	92
(1.0)	WAC 18-24-020	Definitions As Used In This Chapter	92
(2.0)	WAC 18-24-030	Assumption of Jurisdiction	93
(51.17)	Chapter 18-52 WAC	Primary Aluminum Plants	94
(2.0)	WAC 18-52-010	Statement of Purpose	94
(2.0)	WAC 18-52-016	Objectives	94
(1.0)	WAC 18-52-021	Definitions	95
(4.0)	WAC 18-52-031	Emissions Standards	99
(4.0)	WAC 18-52-041	Revision of Emission STandards	99

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Regulation Number	Title	Page
(2.0)	WAC 18-52-051	Standards of Performance	100
(10.0)	WAC 18-52-056	New Source Review	100
(13.0)	WAC 18-52-071	Reporting	103

TABLE OF CONTENTS (Cont.)

Northwest Air Pollution Authority

Revised Standard Subject Index	Section Number	Title	Page
--	Regulation 1	--	105
--	Chapter I	Organization and General Provisions	105
(2.0)	Section 1.01	Name of Authority	105
(2.0)	Section 1.02	Short Title	105
(2.0)	Section 1.03	Policy	105
(2.0)	Section 1.05	Duties and Powers	106
(16.0)	Section 1.07	Investigations and Studies	106
(14.0)	Section 1.09	Confidential Information	107
(15.0)	Section 1.11	Violations - Notice	107
(16.0)	Section 1.13	Orders and Hearings	107
(16.0)	Section 1.15	Appeals From Board Orders	108
(16.0)	Section 1.17	Status of Orders on Appeal	108
(2.0)	Section 1.19	Interference or Obstruction	108
(2.0)	Section 1.21	False and Misleading Oral Statements: Unlawful Reproduction or Alteration of Documents	108
(2.0)	Section 1.23	Display of Orders, Certificates and other Notices: Removal or Mutilation Prohibited	109
(2.0)	Section 1.25	Service of Notice	109
(2.0)	Section 1.27	Separability	109
(15.0)	Section 1.29	Penalty	110
(15.0)	Section 1.30	Civil Penalty	110

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(15.0)	Section 1.31	Additional Enforcement	110
(1.0)	Section 1.33	General Definitions	111
(2.0)	Section 1.35	Adoption of State Law	114
--	Chapter II	Ambient Air Quality Objective's	115
(2.0)	Section 2.01	Foreword	115
(2.0)	Section 2.03	Ambient Air Quality Areas	115
(4.0)	Section 2.05	Ambient Air Quality Objectives	116
(2.0)	Section 2.07	Application of Objectives	118
--	Regulation 2	----	119
--	Chapter I	Control Procedures	119
(2.0)	Section 1.01	Short Title	119
(3.0)	Section 1.03	Registration Required	119
(2.0)	Section 1.04	Approval to Operate Required	119
(3.0)	Section 1.05	General Requirements for Registration	119
(2.0)	Section 1.07	Notice of Construction - When Required	122
(3.0)	Section 1.09	Information Required for Notice of Construction and Application for Approval	122
(2.0)	Section 1.11	Issuance of Approval or Order	123
(2.0)	Section 1.13	Notice of Completion - Order of Violation	125
(9.0)	Section 1.14	Testing and Sampling	125

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(2.0)	Section 1.15	Conditional Approval	126
(2.0)	Section 1.16	Transfer	127
(5.0)	Section 1.17	Variances	127
(2.0)	Chapter II	Emission Standards	129
(2.0)	Section 2.01	Introduction	129
(50.1.2)	Section 2.05	Emission of Air Contaminant: Visual Standard	129
(51.9)	Section 2.07	Incinerator Burning	131
(51.13)	Section 2.09	Refuse Burning Equipment: Time Restriction	131
(50.2)	Section 2.11	Emission of Sulfur Compounds	131
(50.2)	Section 2.12	Emission of Sulfur Compounds	134
(50.1)	Section 2.13	Emission of Particulate Matter	136
(50.6)	Section 2.15	Odor Control Measures	137
(50.7)	Section 2.16	General Nuisance	137
(2.0)	Section 2.17	Emission of Air Contaminent: Concealment and Masking	137
(50.11)	Section 2.19	Preventing Particulate Matter From Becoming Airborne	137
(7.0)	Section 2.21	Report of Breakdown	138
(50.7)	Section 2.23	Fluorides	138
(4.0)	Section 400	Standards	140
(4.1)	Section 455	Emission of Particulate Matter	140
(51.13)	Section 501	Outdoor Fires - General	141

TABLE OF CONTENTS (Cont.)

Puget Sound Air Pollution Control Agency

Revised Standard Subject Index	Section Number	Title	Page
(1.0)(2.0)	Article 1	Policy, Short Title and Definitions	144
(2.0)	Section 1.01	Policy	144
(2.0)	Section 1.03	Name of Agency	144
(2.0)	Section 1.05	Short Title	144
(1.0)	Section 1.07	General Definitions	144
(2.0)	Article 3	General Provisions	149
(16.0)	Section 3.01	Duties and Powers of the Board	149
(9.0)	Section 3.03	Investigations and Studies by the Control Officer	149
(9.0)	Section 3.05	Investigation by Control Officer	149
(14.0)	Section 3.07	Confidential Information	150
(15.0)	Section 3.09	Violations - Notice	150
(16.0)	Section 3.11	Orders and Hearings	150
(16.0)	Section 3.12	Appeals From Board Orders	150
(2.0)	Section 3.13	Status of Orders on Appeal	150
(2.0)	Section 3.15	Interfering With or Obstructing Agency Personnel	151
(2.0)	Section 3.17	False and Misleading Oral Statements: Unlawful Reproduction or Alteration of Documents	151
(2.0)	Section 3.19	Display of Orders, Certificates and Other Notices: Removal or Mutilation Prohibited	151

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(2.0)	Section 3.21	Service of Notice	151
(2.0)	Section 3.23	Separability	152
(15.0)	Section 3.25	Penalty	152
(15.0)	Section 3.27	Additional Enforcement	152
(15.0)	Section 3.29	Civil Penalty	152
(3.0)	Section 5.03	Registrations Required	153
(3.0)	Section 5.05	General Requirements for Registration	153
(2.0)	Section 6.03	Notice of Construction - When Required	155
(3.0)	Section 6.04	Filing Fees - Notice of Construction	156
(3.0)	Section 6.05	Information Required for Notice of Construction and Application for Approval	157
(14.0)	Section 6.06	Public Notice May Be Required	158
(2.0)	Section 6.07	Issuance of Approval or Order	158
(2.0)	Section 6.09	Notice of Completion - Order of Violation	160
(2.0)	Section 6.11	Conditional Approval	161
(5.0)	Article 7	Variances	161
(5.0)	Section 7.01	Variances	161
(51.13)	Section 9.02	Outdoor Fires	163
(50.1.2)	Section 9.03	Emission of Air Contaminant: Visible Standard	166
(50.1)	Section 9.04	Particulate Matter	167
(51.9)	Section 9.05	Incinerator Burning	167

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(51.9)	Section 9.06	Refuse Burning Equipment: Time Restriction	168
(50.2)	Section 9.07	Emission of Sulfur Oxides	168
(50.1.1)	Section 9.09	Emission of Particulate Matter	172
(2.0)	Section 9.11	Emission of Air Contaminant or Water Vapor: Detriment to Person or Property	175
(50.6)	Section 9.12	Odor and Nuisance Control Measures	175
(2.0)	Section 9.13	Emission of Air Contaminant: Concealment and Masking Restricted	176
(50.1)	Section 9.15	Preventing Particulate Matter from Becoming Airborne	176
(7.0)	Section 9.16	Report of Breakdown	176
(50.3)	Section 9.17	Emission of Nitrogen Oxides	177
(4.0)	Article 11	Ambient Air Quality Standards and Control Measures Required	177
(2.0)	Section 11.01	Air Quality Control Measures	177
(4.1)	Section 11.03	Ambient Air Quality Standards: Suspended Particulate	178
(4.1)	Section 11.05	Air Quality Standards: Particle Fallout	178
(4.5)	Section 11.06	Ambient Air Quality Standards for Carbon Monoxide	179
(4.6)	Section 11.07	Ambient Air Quality Standards: Photochemical Oxidants	179

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(4.3)	Section 11.08	Ambient Air Quality Standards: Nitrogen Dioxide	179
(4.4)	Section 11.09	Ambient Air Quality Standards: Hydrocarbons	179
(10.0)	Article 12	Standards of Performance	180
(13.0)	Section 12.01	Reporting and Monitoring Required	180

Douglas County Air Pollution Control Commission

(2.0)	Article V	Emission Standards and Preventive Measures	181
(51.13)	Section 5.01	Open Fires	181

Grant County Clean Air Authority

(2.0)	Article V	Emission Standards and Preventive Measures	183
(51.13)	Section 5.01	Open Fires	183

Southwest Air Pollution Control Authority

--	Regulation I	------	186
(1.0) (2.0)	Article I	Policy, Short Title and Definitions	186
(2.0)	Section 1.01	Policy	186
(2.0)	Section 1.02	Name of Authority	186
(2.0)	Section 1.03	Short Title	186
(1.0)	Section 1.04	General Definitions	186
(2.0)	Article II	General Provisions	189

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(15.0)	Section 2.01	Control Officer - Powers and Duties	189
(16.0)	Section 2.02	Orders and Hearings	190
(16.0)	Section 2.04	Status of Orders on Appeals	190
(2.0)	Section 2.05	Service of Notice	191
(2.0)	Section 2.06	Advisory Council	191
(5.0)	Section 2.07	Variances	191
(2.0)	Section 2.08	Severability	192
(15.0)	Section 2.09	Penalty	192
(15.0)	Section 2.10	Civil Penalty	192
(2.0)	Article III	Notices of Construction and Orders of Approval	194
(2.0)	Section 3.01	Notice of Construction - When Required	194
(3.0)	Section 3.02	Information Required for Notice of Construction and Application for Approval	194
(2.0)	Section 3.03	Issuance of Approval or Order	195
(2.0) (15.0)	Section 3.04	Notice of Completion - Order of Violation	197
(2.0)	Section 3.05	Conditional Approval	197
(2.0)	Section 3.06	Waiver of Approval Prior to Construction	197
(2.0)	Article IV	Emissions Prohibited	199
(51.13)	Section 4.01	Open Fires	199
(50.1.2)	Section 4.02	Visual Emissions	200

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(51.9)	Section 4.03	Incinerator Burning	201
(51.9)	Section 4.04	Incinerator Hours	201
(50.6)	Section 4.05	Odor Control Measures	202
(50.1)	Section 4.06	Preventing Particulate Matter from Becoming Airborne	202
(7.0)	Section 4.07	Report of Breakdown	203
(2.0)	Section 4.08	Exceptions	203
--	Regulation 2	------	204
(1.0) (2.0)	Article I	Policy, Short Title and Definitions	204
(2.0)	Section 1.01	Policy	204
(2.0)	Section 1.02	Name of Authority	204
(2.0)	Section 1.03	Short Title	204
(1.0)	Section 1.04	General Definitions	204
(2.0) (15.0)	Article II	General Provisions, Severability and Penalty	207
(2.0)	Section 2.01	General Provisions	207
(2.0)	Section 2.02	Severability	207
(15.0)	Section 2.03	Penalty	207
(15.0)	Section 2.04	Civil Penalty	207
(14.0)	Section 2.05	Confidential Information	208
(2.0)	Section 2.06	Exclusion	208
(3.0)	Article III	Registration	209
(3.0)	Section 3.01	Registration Required	209
(3.0)	Section 3.02	General Requirements for Registration	209

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(2.0)	Section 3.03	Air Contaminant Sources Excluded	209
(4.0)	Article IV	Ambient Air Standards	210
(2.0)	Section 4.01	Introduction	210
(4.2)	Section 4.02	Sulfur Dioxide	210
(4.1)	Section 4.03	Particulate Matter	210
(50.0)	Article V	Emission Standards	212
(50.2)	Section 5.01	Emission of Sulfur Dioxide	212
(50.1)	Section 5.02	Emission of Particulate Matter	213
(50.6)	Section 5.03	Emission of Odorous Gases	214
(50.7)	Section 5.04	Emission of Fluorides	215
(2.0)	Section 5.05	Concealment and Masking of Air Contaminants	216
(6.0)	Section 5.06	Time for Compliance	216
(7.0)	Section 5.07	Report of Breakdown	217
(2.0)	Section 5.08	Breach of Agreement to Discontinue Violation	217
(2.0)	Section 5.09	Exception	218

Olympic Air Pollution Control Authority

Revised Standard Subject Index	Section Number	Title	Page
(1.0) (2.0)	Article I	Policy, Short Title, and Definitions	219
(2.0)	Section 1.01	Policy	219
(2.0)	Section 1.03	Name of Authority	219
(2.0)	Section 1.05	Short Title	219

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(1.0)	Section 1.07	Definitions	219
(2.0)	Article 3	General Provisions	223
(2.0)	Section 3.01	Control Officer - Powers and Duties	223
(14.0)	Section 3.03	Confidential Information	224
(2.0)	Section 3.05	Interference or Obstruction	224
(2.0)	Section 3.07	False or Misleading Statements	224
(2.0)	Section 3.09	Unlawful Reproduction or Alteration of Documents	224
(2.0)	Section 3.11	Display or Orders, Certificates and Other Notices: Removal or Mutilation Prohibited	224
(16.0)	Section 3.13	Orders and Hearings	225
(16.0)	Section 3.15	Appointment of Hearing Officer	225
(16.0)	Section 3.17	Appeals from Board Orders	225
(2.0)	Section 3.19	Status of Orders on Appeals	225
(2.0)	Section 3.21	Service of Notice	226
(5.0)	Section 3.23	Variances	226
(2.0)	Section 3.25	Severability	227
(15.0)	Section 3.27	Penalty	227
(3.0)	Article 5	Registration	228
(3.0)	Section 5.01	Registration Required	228
(3.0)	Section 5.03	General Requirements for Registration	228

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(3.0)	Article 7	Notice of Construction and Application for Approval	231
(2.0)	Section 7.01	Notice of Construction	231
(2.0)	Section 7.03	Additional Information - When Required	231
(2.0)	Section 7.05	Issuance of Approval or Order	232
(2.0)	Section 7.07	Notice of Completion - Order of Violation	233
(2.0)	Section 7.09	Conditional Approval	234
(2.0)	Article 9	Emission Prohibited	235
(51.13)	Section 9.01	Open Fires	235
(50.1.2)	Section 9.03	Visual Emissions	237
(50.1)	Section 9.05	Particulate Matter	238
(51.9)	Section 9.07	Incineration Operation	239
(51.9)	Section 9.09	Incineration Hours	239
(50.6)	Section 9.11	Odor Control Measures	240
(2.0)	Section 9.13	Emission of Air Contaminant --Concealment and Masking	240
(7.0)	Section 9.15	Report of Breakdown	240
(2.0)	Section 9.17	Exceptions	241
(50.6)	Section 9.19	Emission of Sulfur Compounds	241
(50.7)	Section 9.21	Fluorides	242

TABLE OF CONTENTS (Cont.)

Yakima County Clean Air Authority

Revised Standard Subject Index	Section Number	Title	Page
(1.0) (2.0)	Article I	Policy, Short Title and Definitions	244
(2.0)	Section 1.01	Policy	244
(2.0)	Section 1.02	Short Title	244
(1.0)	Section 1.03	Definitions	244
(2.0)	Article II	General Provisions	247
(2.0)	Section 2.01	Causing or Permitting Air Pollution Unlawful - Exception	247
(2.0)	Section 2.02	Control Officer - Powers and Duties	247
(2.0)	Section 2.03	Miscellaneous Provisions	248
(14.0)	Section 2.04	Confidentiality of Records and Information	248
(2.0)	Section 2.05	Advisory Council	248
(15.0) (16.0)	Article III	Violations - Orders and Hearings	249
(16.0)	Section 3.01	Notice of Violation - Corrective Action - Hearings	249
(2.0)	Section 3.02	Finality or Order - Appeal	249
(2.0)	Section 3.03	Stay or Order Pending Appeal	249
(2.0)	Section 3.04	Voluntary Compliance	249
(3.0)	Article IV	Registration and Notice of Construction	250
(3.0)	Section 4.01	Registration	250
(2.0)	Section 4.02	Notice of Construction	250
(51.1)	Section 4.03	Orchard Heaters	252

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(2.0)	Section 4.04	Exceptions to Article IV	252
(2.0)	Article V	Emission Standards and Preventive Measures	254
(51.13)	Section 5.01	Open Fires	254
(50.1.2)	Section 5.02	Visible Emission	254
(51.9)	Section 5.03	Incinerator and Refuse Burning Equipment	256
(50.6)	Section 5.04	Odor Control Measures	256
(2.0)	Section 5.05	Preventive Measures	257
(2.0)	Section 5.06	Exceptions to Article V	257
(5.0)	Article VI	Variances and Exemptions	259
(5.0)	Section 6.01	Variances	259
(2.0)	Section 6.02	Exemptions	261
(51.13)	Section 6.03	Additional Restrictions on Open Burning	263
(15.0)	Article VII	Penalty and Severability	265
(15.0)	Section 7.01	Penalty for Violation	265
(15.0)	Section 7.02	Additional or Alternative Penalties	265
(2.0)	Section 7.03	Assurance of Discontinuance	266
(2.0)	Section 7.04	Restraining Order - Injunctions	266
(2.0)	Section 7.05	Severability	266
(2.0)	Section 7.06	Effective Date	266

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
		Spokane County Air Pollution Control Authority	
--	Regulation I	------	267
(1.0) (2.0)	Article I	Policy, Short Title and Definitions	267
(2.0)	Section 1.01	Policy	267
(2.0)	Section 1.02	Name of Authority	267
(2.0)	Section 1.03	Short Title	267
(1.0)	Section 1.04	General Definitions	267
(2.0)	Article II	General Provisions	270
(16.0)	Section 2.01	Powers and Duties of the Board	270
(2.0)	Section 2.02	Control Officer's Duties and Powers	270
(14.0)	Section 2.03	Confidential Information	271
(15.0)	Section 2.04	Violations	271
(16.0)	Section 2.05	Orders and Hearings	272
(16.0)	Section 2.06	Appeals from Board Orders, Judicial Review	272
(2.0)	Section 2.07	Status of Orders or Appeal	273
(15.0)	Section 2.08	Falsification of Statement or Document, Unlawful Alteration of Documents, Display of Documents and Their Removal	273
(2.0)	Section 2.09	Service of Notice	273
(2.0)	Section 2.10	Severability	274
(15.0)	Section 2.11	Penalties	274

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(15.0)	Section 2.12	Restraining Order - Injunction - Other Court Order	275
(5.0)	Article III	Variances, When Permitted	276
(3.0)	Article IV	Registration	278
(3.0)	Section 4.01	Registration Required	278
(3.0)	Section 4.02	General Requirements for Registration	278
(2.0)	Article V	Notice of Construction	280
(2.0)	Article VI	Emissions Prohibited	281
(51.13)	Section 6.01	Open Fires	281
(50.1.2)	Section 6.02	Visual Emissions	284
(51.9)	Section 6.03	Incinerator Burning and Incineration Hours	284
(50.6)	Section 6.04	Odors and Nuisances	285
(50.1)	Section 6.05	Particulate Matter and Preventing Particulate Matter from Becoming Airborne	285
(50.0)	Section 6.06	Emission of Air Contaminants or Water Vapor, Detriment to Persons or Property	286
(2.0)	Section 6.07	Emission of Air Contaminant Concealment and Masking Restricted	286
(7.0)	Section 6.08	Report of Breakdown	286
(2.0)	Section 6.09	Exception to this Article	287
--	Regulation II	------	288
(1.0) (2.0)	Article I	Policy, Short Title and Definitions	288
(2.0)	Section 1.01	Policy	288

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
(2.0)	Section 1.02	Name of Authority	288
(2.0)	Section 1.03	Short Title	288
(1.0)	Section 1.04	General Definitions	288
(2.0)	Article II	General Provisions, Severability and Penalty	291
(2.0)	Section 2.01	General Provisions	291
(2.0)	Article III	Variances When Permitted	292
(2.0)	Article IV	Emissions Prohibited	294
(51.1)	Section 4.01	Particulate Emissions - Grain Loading Restrictions	294
(2.0)	Section 4.02	Concealment or Masking Restrictions	294
(9.0)	Section 4.03	Analysis and Testing Requirements	294
(2.0)	Section 4.04	Maximum Emission Rate	295
(7.0)	Article V	Breakdowns and Exceptions	296
(7.0)	Section 5.01	Report of Breakdowns	296
(2.0)	Section 5.02	Exception to this Article	296

Benton-Franklin-Walla Walla Air Pollution Control Authority

Revised Standard Subject Index	Section Number	Title	Page
(51.13)	Regulation II, Part D	Open Burning	297
(2.0)	Section 12-010	Purpose	297
(2.0)	Section 12-020	Applicability	297
(1.0)	Section 12-030	Definitions	297
(8.0)	Section 12-035	Episodes	298

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Subject Number	Title	Page
(51.13)	Section 12-045	Prohibited Materials	298
(2.0)	Section 12-055	Exceptions	299
(51.13)	Section 12-065	Residential Open Burning	299
(51.13)	Section 12-075	Commercial Open Burning	300
(51.13)	Section 12-085	Agricultural Open Burning	301
(8.0)	Section 12-095	Critical Area Designation	303
(8.0)	Section 12-120	Smoke Management Programs	303
(15.0)	Section 12-130	Notice of Violation	304
(2.0)	Section 12-140	Remedies	304

REVISED STANDARD SUBJECT INDEX

1.0 DEFINITIONS
2.0 GENERAL PROVISIONS AND ADMINISTRATIVE PROCEDURES
3.0 REGISTRATION CERTIFICATES, OPERATING PERMITS AND APPLICATIONS
4.0 AIR QUALITY STANDARDS (PRIMARY AND SECONDARY)
    4.1 PARTICULATES
    4.2 SULFUR DIOXIDE
    4.3 NITRIC OXIDES
    4.4 HYDROCARBONS
    4.5 CARBON MONOXIDE
    4.6 OXIDANTS
    4.7 OTHERS
5.0 VARIANCES
6.0 COMPLIANCE SCHEDULES
7.0 EQUIPMENT MALFUNCTION AND MAINTENANCE
8.0 EMERGENCY EPISODES
9.0 AIR QUALITY SURVEILLANCE AND SOURCE TESTING
10.0 NEW SOURCE PERFORMANCE STANDARDS
11.0 NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS
12.0 MOTOR VEHICLE EMISSIONS AND CONTROLS
13.0 RECORD KEEPING AND REPORTING
14.0 PUBLIC AVAILABILITY OF DATA
15.0 LEGAL AUTHORITY AND ENFORCEMENT
16.0 HEARINGS, COMPLAINTS, AND INVESTIGATIONS
17.0 PREVENTION OF SIGNIFICANT DETERIORATION
18.0 AIR QUALITY MAINTENANCE AREA
19.0 EMISSION OFFSET POLICY
20.0 MAJOR STATIONARY SOURCES
21.0 - 49.0
    RESERVED FOR FUTURE EXPANSION OF COMMON INDEX
50.0 POLLUTANT - SPECIFIC REGULATIONS
    50.1 PARTICULATES

        - 50.1.1 PROCESS WEIGHT
        - 50.1.2 VISIBLE EMISSIONS
        - 50.1.3 GENERAL
    - 50.2 SULFUR COMPOUNDS
    - 50.3 NITRIC OXIDES
    - 50.4 VOLATILE ORGANIC COMPOUNDS
    - 50.5 CARBON MONOXIDE
    - 50.6 ODOROUS POLLUTANTS
    - 50.7 OTHERS (Pb, Hg, etc.)
- 51.0 SOURCE CATEGORY SPECIFIC REGULATIONS
    - 51.1 AGRICULTURAL PROCESSES (includes Grain Handling, Orchard Heaters, Rice and Soybean Facilities, Related Topics)
    - 51.2 COAL OPERATIONS (includes Cleaning, Preparation, Coal Refuse Disposal Areas, Coke Ovens, Charcoal Kilns, Related Topics)
    - 51.3 CONSTRUCTION (includes Cement Plants, Materials Handling, Topics Related to Construction Industry)
    - 51.4 FERROUS FOUNDRIES (includes Blast Furnaces, Related Topics)
    - 51.5 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - Particulates (includes Fuel Content and Other Related Topics)
    - 51.6 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - SO_2 (includes Fuel Content and Other Related Topics)
    - 51.7 FUEL BURNING EQUIPMENT (oil, natural gas, coal) - NO_2 (includes Fuel Content and Other Related Topics)
    - 51.8 HOT MIX ASPHALT PLANTS
    - 51.9 INCINERATION
    - 51.10 NITRIC ACID PLANTS
    - 51.11 NON-FERROUS SMELTERS (Zn, Cu, etc.) - Sulfur Dioxide
    - 51.12 NUCLEAR ENERGY FACILITIES (includes Related Topic)
    - 51.13 OPEN BURNING (includes Forest Management, Forest Fire, Fire Fighting Practice, Agricultural Burning and Related Topics)
    - 51.14 PAPER PULP; WOOD PULP AND KRAFT MILLS (includes Related Topics)
    - 51.15 PETROLEUM REFINERIES
    - 51.16 PETROLEUM STORAGE (includes Loading, Unloading, Handling and Related Topics)
    - 51.17 SECONDARY METAL OPERATIONS (includes Aluminum, Steel and Related Topics)
    - 51.18 SULFURIC ACID PLANTS

51.19 SULFURIC RECOVERY OPERATIONS
51.20 WOOD WASTE BURNERS
51.21 MISCELLANEOUS TOPICS
51.22 COATING OPERATIONS (Can, Coil, Paper, Fabric, Vinyl, Metal, Wire, Surface Coating)
51.23 CUTBACK ASPHALT
51.24 SOLVENT METAL CLEANING

CHAPTER 173-400

GENERAL REGULATION FOR AIR POLLUTION SOURCES

WAC 173-400-010 PURPOSE

The department of ecology, under the authority vested in it by chapters 43.21A RCW and 70.94 RCW, is charged with responsibilities for the conduct of a state-wide program of air pollution prevention and control. This regulation provides the basic framework for carrying out the state's responsibilities for such a program through the establishment of standards for maximum permissible emissions, the implementation of registration and notice requirements, provision for monitoring and reporting, and the identification of regulatory actions which may be taken to enforce standards. This chapter is designed to operate within the statutory framework for the distribution of responsibilities between state, regional and local units of government in dealing with problems of air pollution.

WAC 173-400-020 APPLICABILITY

The provisions of this chapter shall apply statewide. An activated air pollution control authority may enforce this chapter and may in addition adopt standards or requirements which are equivalent to or more stringent than standards or requirements on the same subject matter established by this chapter. This regulation is applicable to all sources of air contaminants except:

(1) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.

(2) Automobiles, trucks, trains, aircraft.

(3) Those sources under the jurisdiction of the energy facility site evaluation council.

(4) The director or board may exempt sources from the procedural requirements of WAC 173-400-100, 173-400-110, and 173-400-120, however no source may be exempted from requirements of federal law or regulation.

WAC 173-400-030 DEFINITIONS

Unless a different meaning is plainly required by context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

(1) "Abnormal operation" means a process operation other than a normal operation which may result in emissions that exceed emission standards. An abnormal operation can be anticipated and planned.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air Pollutant" means the same as "Air Contaminant".

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(4) "Air pollution control authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(5) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

   (i) Applicable standards as set forth in 40 CFR part 60 and Part 61.

   (ii) The applicable state implementation plan emission limitation, or

   (iii) The emission rate specified as a permit condition.

(6) "Ambient air" means the surrounding outside air.

(7) "Ambient air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the air which shall not be exceeded.

(8) "Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this regulation which would be emitted from any proposed stationary source or modification which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of the best available control tech-

nology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the reviewing agency determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The requirement of RCW 70.94.152 that a new source should provide "all known available and reasonable methods of emission control" is assumed to mean the same as best available control technology.

(9) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

(10) "Combustion and incineration sources" means sources using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

(11) "Commenced construction" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(12) "Compliance schedule" means a schedule of steps to be taken to comply with emission requirements including a description of the specific steps and the date when each step will be completed.

(13) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(14) "Department" means the department of ecology.

(15) "Director" means the director of the department of ecology or his duly authorized representative.

(16) "Emission" means a release of contaminants into the ambient air.

(17) "Emission standard" means a regulation (or portion thereof) setting forth an allowable rate of emissions, level of opacity, or prescribing equipment or fuel specifications that result in control of air pollution emission.

(18) "Excess Emissions" means emissions of an air pollutant in

excess of an emission standard.

(19) "Facility" means an identifiable process or activity that emits contaminants to the ambient air.

(20) "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(21) "Fugitive dust" means a type of particulate emission made airborne by forces of wind, man's activity, or both, such as unpaved roads, construction sites, or tilled land. Two major categories are anthropogenic sources (those which result directly from and during human activities) and wind erosion sources (those resulting from erosion of soil by wind). Fugitive dust is distinguished from fugitive emissions.

(22) "Fugitive emissions" means contaminants which are generated by industrial or other activities not covered by the fugitive dust definition and which are released to the atmosphere through openings such as windows, vents or doors, ill-fitting oven closures, rather than through primary exhaust systems or are reentrained from unenclosed material handling operations. Aggregate storage operations and active tailing piles are included in this category of sources.

(23) "General process source" means sources using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means excluding combustion.

(24) "Incinerator" means a furnace used primarily for the destruction of waste.

(25) "Lowest achievable emission rate" means for any source, that rate of emission which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(26) "Major source" means:

(i) Any of the following stationary sources of air pollutants which emit, or have the potential to emit, one hundred tons per year or mre of any air pollutant regulated under the clean air act (the "Act"): Fossil fuel-fired steam electric plants of more than two hundred and fifty million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than two hundred and fifty tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process) primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than two hundred and fifty million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants; and

(ii) Notwithstanding the source sizes specified above, any source which emits, or has the potential to emit, two hundred and fifty tons per year or more of any pollutant regulated under the Act.

(27) "Masking" means the mixing of a chemically non-reactive control agent with a malodorous gaseous effluent to change the perceived odor, usually to a less offensive odor.

(28) "Materials handling" means the handling, transportating, loading, unloading, storage, and transfer of material with no significant alteration of the chemical or physical properties of the material.

(29) "New source" means a source which commences construction after the effective date of this chapter. Addition to, enlargement, modification, replacement, or any alteration of any process or source which will increase potential emissions or ambient air concentrations of any contaminant for which federal or state ambient air concentrations of any contaminant for whch federal or state ambient air emissions standards have been established shall be construed as construction or installation or establishment of a new source.

(30) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

(31) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or

more of the criteria pollutants.

(32) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(33) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Wood waste disposal in wigwam burners is not considered open burning.

(34) "Particulate matter" means small discrete masses of liquid or solid, exclusive of uncombined water.

(35) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

(36) "Potential emissions" means the emissions of a pollutant from a source operated at maximum capacity in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

(37) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable or meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality and the capital and operating costs of the additional controls. RACT requirements for any source or source category may be adopted as an order or regulation after public hearing.

(38) "Source" means one or more processes or operations which emit or may emit any contaminants to the ambient air. A stationary source is composed of one or more pollutant emitting facilities.

(39) "Source category" means all sources of the same type or classification.

(40) "Standard conditions" means a temperature of 60 degrees F (15.6 degrees C) and a pressure of 29.92 inches (760 mm) of

mercury except when otherwise specified.

(41) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(42) "Upset" means an unexpected sudden occurrence which may result in emissions in excess of emission standards.

WAC 173-400-040 GENERAL STANDARDS FOR MAXIMUM PERMISSIBLE EMISSIONS

All point sources are required to meet the emission standards of this chapter. Further, all point sources are required to use reasonably available control technology which may be determined for some sources or source categories to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department or authority shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the source or sources for installation of RACT. The order will contain a schedule for installation, with intermediate benchmark dates and a final completion date and shall constitute a compliance schedule. All sources in nonattainment areas shall be in compliance by December 31, 1982 with RACT requirements for nonattainment pollutants which have been defined by July 1, 1981. For RACT requirements defined after July 1, 1981, sources will be placed on a compliance schedule which will be completed as soon as practicable.

(1) Visible emissions. No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any source which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except as follows:

(a) When the person responsible for the source can demonstrate that the emissions in excess of twenty percent will not exceed fifteen minutes in any consecutive eight hours.

(b) When the owner or operator of a source supplies valid data to show that the opacity is in excess of twenty percent as the result of the presence of condensed water droplets, and that the concentration of particulate matter, as shown by a source test approved by the director, is less than one-tenth (0.10 grain per standard dry cubic foot. For combustion emissions the exhaust gas volume shall be corrected to seven percent oxygen.

(2) Preventing particulate matter from being deposited. No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) Fugitive emissions. The owner or operator of any source involving materials handling, construction, demolition or any other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the source has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use reasonably available control technology to control emissions of the contaminants for which nonattainment has been designated. Significance will be determined by EPA interpretive ruling for PSD and offsets of file with the department.

(4) Odors. Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedure to reduce these odors to a reasonable minimum.

(5) Emission of air contaminants detrimental to persons or property. No person shall cause or permit the emission of any contaminant from any source, including any air contaminant whose emission is not otherwise prohibited by this regulation, if the air contaminant causes detriment to the health, safety, or welfare of any person, or causes damage to property or business.

(6) Sulfur dioxide.

(a) No person shall cause or permit the emission of a gas containing sulfur dioxide from any source in excess of one thousand parts per million (ppm) of sulfur dioxide except as follows:

(i) When the owner or operator of a source supplies emission data and can demonstrate to the director or board that there is no feasible method of reducing the concentration to less than one thousand ppm and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, the director or board may require the owner or operator to equip, operate, and maintain continuous ambient air monitoring stations at locations approved by the director or board and using equipment approved by the director or board. All sampling results will be made available upon request and a monthly summary will be submitted to the department or authority.

(ii) When a source limits such emission by a combination of constant emission controls and dispersion techniques approved by the director or board, as permitted by WAC 173-400-040(13).

(b) All concentrations of sulfur dioxide referred to above are by volume, dry, and, for combustion emissions the exhaust gas volume shall be corrected to seven percent oxygen.

(7) Concealment and masking. No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provision of this chapter.

(8) Fugitive dust sources.

(a) The owner or operator of a source shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The department may issue a regulatory order to the person responsible for a fugitive dust source and require measures to be used for control.

(9) The owner or operator of any existing fugitive dust source that has been identified as a significant contributor to the nonattainment status of a designated nonattainment area shall be required to use reasonably available control technology to control emissions. Significance will be determined by EPA interpretive ruling for PSD and offsets as on file with the department.

(10) All sources of fugitive dust required to use reasonably available control technology shall be in compliance by July 1, 1981 or on a compliance schedule which will be completed by December 31, 1982. Sources required to use RACT after July 1, 1981 shall be placed on a compliance schedule which will be completed as soon as practicable.

(11) The development of specific requirements for a nonattainment area shall include consultation with local government in the area and an opportunity shall be provided for public comment on the measures.

(12) Whenever reasonably available control technology has been defined for a source or category of sources in any area, the department or local agency shall issue a regulatory order to the source or sources requiring that the defined technology be implemented and establishing a date when the implementation will be completed.

(13) Use of tall stacks of dispersion techniques.

(a) The degree of emission limitation required for control of any pollutant shall not be affected in any manner by:

(i) So much of the stack height of any source as exceeds good engineering practice, as defined by WAC 173-400-040(13)(c)(ii) or

(ii) Any other dispersion technique. This subsection (a) shall not apply with respect to stack heights in existence or dispersion techniques implemented before December 31, 1970.

(b) A source which utilizes a stack height in existence before December 31, 1970 which exceeds good engineering practice, or which implemented dispersion techniques before December 31, 1970 shall be permitted to use such stack height or other dispersion techniques approved by the director or board to comply with any provisions of the Washington state implementation plan to attain and maintain national ambient air quality standards, but only when such dispersion techniques are used in conjunction with constant emissions controls specified for such source in the implementation plan submitted by the state.

(c) For the purposes of this section, the following words and terms shall have the following meanings:

(i) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe, duct, or flare.

(ii) "Good engineering practice" means, with respect to stack heights, the height necessary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles. Such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the director or board that a greater height is necessary as provided under the preceding sentence.

In no event shall this section be construed to prohibit any increase in any stack height or restrict in any manner the stack height of any source.

(iii) "Dispersion technique" means any intermittent or supplemental control of pollutants varying with atmospheric conditions, including any method which attempts to affect the concentration of a pollutant according to atmospheric conditions and the manipulation of source process parameters or selective handling of exhaust gas streams. The preceding sentence does not include the reheating of a gas stream, following use of a pollution control system, for the purpose of aiding dispersion.

WAC 173-400-050 MINIMUM EMISSION STANDARDS FOR COMBUSTION AND INCINERATION SOURCES.

(1) Combustion and incineration sources must meet all requirements of WAC 173-400-040 above and, in addition, no person shall cause or permit emissions of particulate matter in excess of 0.10 grain per standard dry cubic foot, except, (a) for sources utilizing the combustion of wood for the production of steam, no person shall allow or permit the emission of particulate matter in excess of 0.20 grain per standard dry cubic foot, as measured by procedures on file at the department.

(2) For all incinerator sources, no person shall cause or permit emissions in excess of one hundred ppm of total carbonyls as measured by procedures on file at the department. Incinerators shall be operated only during daylight hours unless written permission to operate at other times is received from the director.

(3) Measured concentrations for combustion and incineration sources shall be adjusted for volumes corrected to seven percent oxygen, except when the director or board shall determine that an alternate oxygen correction factor is appropriate.

WAC 173-400-060 MINIMUM EMISSION STANDARDS FOR GENERAL PROCESS SOURCES.

General process sources shall be required to meet all applicable provisions of WAC 173-400-040 above and in addition, no person shall cause or permit the emission of particulate material from any general process operation in excess of one-tenth (0.10) grain per standard cubic foot of dry exhaust gas.

WAC 173-400-070 MINIMUM STANDARDS FOR CERTAIN SOURCE CATEGORIES.

The director finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the minimum standards for sources within the categories listed. Except as specifically provided in this section, such sources shall not be required to meet the provisions of WAC 173-400-040, WAC 173-400-050 and WAC 173-400-060.

(1) Wigwam burners

(a) All wigwam burners shall meet all provisions of subsections 2, 3, 4, 5, 6, and 7 of WAC 173-400-040.

(b) All wigwam burners shall use equipment, facilities and practices which represent practical current state of technology. All facilities shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent over-fire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by the department.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in Sections WAC 173-400-040 and WAC 173-400-040, except operating hours.

(d) The director may establish additional requirements for wigwam burners located in or proposed for location in sensitive areas as defined by Chapter 18-06 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and WAC 173-400-050. Wigwam burners will be considered to be in compliance with WAC 173-400-040 (1) if they meet the requirements contained therein except during a startup period not to exceed 30 minutes in any eight consecutive hours.

(ii) A requirement to apply best available technology (BACT).

(iii) A requirement to reduce or eliminate emissions if the director establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause or violation of ambient air standards.

(2) Hog fuel boilers

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and WAC 173-400-050 (1), except that emissions caused by conditions beyond the control of the owner or operator may exceed twenty percent opacity for up to fifteen consecutive minutes once in any four hours provided that the operator shall take immediate action to correct the condition.

(b) All hog fuel boilers shall utilize equipment, facilities and practices which represent the practical current state of technology. All facilities shall be operated and maintained to minimize emissions.

(c) The director may establish additional requirements for hog fuel boilers located in or proposed for location in sensitive areas as defined by Chapter 18-06 WAC.

(3) Orchard heating

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It shall be unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Grain elevators.

(a) Any grain elevator which is primarily classified as a materials handling oeration shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).

(b) The director may establish additional requirements for grain elevators located, or proposed for location, in sensitive areas as defined by Chapter 18-06 WAC. These requirements may include but shall not be limited to a requirement to meet the provisions of WAC 173-400-040 (1) and WAC 173-400-060.

(5) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of subsections (2), (3), (4), (5), (6), and (7) of WAC 173-400-040 and in addition:

(i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or permit the emission of particulate material in excess of two-tenths (0.20) grain per standard cubic foot of dry exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115, unless preempted by EFSEC jurisdiction.

(c) The director may establish additional requirements for catalytic cracking units located in, or proposed for location in, sensitive areas as defined by Chapter 18-06 WAC.

(6) Other wood waste burners.

(a) Wood waste burners not specifically provided for in this section shall meet all provisions of WAC 173-400-040.

(b) Such wood waste burners shall utilize equipment, facilities and practices which represent practical current state of technology. All facilities shall be operated and maintained to minimize emissions.

(c) The director may establish additional requirements for such wood waste burners located in or proposed for location in sensitive areas as defined by Chapter 18-06 WAC. These requirements may include but shall not be limited to a requirement to eliminate all visible emissions.

WAC 183-400-075 EMISSIONS STANDARDS FOR SOURCES EMITTING HAZARDOUS AIR POLLUTANTS.

(1) The emission standards for asbestos, beryllium, beryllium rocket motor firing, mercury and vinyl chloride promulgated by the United State environmental protection agency prior to April 26, 1979, as contained in title 40, code of federal regulations, part 61, are by this reference adopted and incorporated herein.

(2) The department, at any time after the effective date of this section, may conduct source tests and require access to records, books, files and other information specific to the control, recovery or release of asbestos, beryllium, mercury, or vinyl chloride in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring and analytical methods for sources of asbestos, beryllium, mercury, or vinyl chloride shall conform with the requirements of title 40, code of federal regulations, part 61, as promulgated prior to April 26, 1979.

(4) This section shall not apply to any source operating pursuant to a waiver granted by the United States environmental protection agency or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

WAC 173-400-080 COMPLIANCE SCHEDULES.

(1) Whenever a source is found to be in violation of the provisions of this chapter, the department or board may issue a regulatory order which will include a schedule of compliance to bring the source into compliance with this chapter. Opportunity for a public hearing on each proposed compliance schedule shall be provided by prominent advertisement of a notice identifying the

proposal and announcing its availability for public inspection in at least one location in the county in which the source is located. No public hearing on a proposed compliance schedule shall be held before thirty days after the publication of the above notice.

(2) A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included within a regulatory order issued hereunder are being met.

(3) Source on a compliance schedule but not meeting emission standards may be subject to delayed compliance penalties as provided for in the federal clean air act.

WAC 173-400-090 SENSITIVE AREA DESIGNATION

In order to control the emission of air contaminants in a manner which takes into account the severity of the air pollution problem in the different areas in which sources are, or may be located, the director, after public hearing upon due notice to all interested parties, may designate sensitive areas. Designation of such areas shall be based on a consideration of present and predicted ambient air quality; population density and trends; distance of sources from public roads; recreational areas and areas of human habitation; topographic and meteorological conditions and other pertinent variables. Sources within a designated sensitive area shall be subject to more stringent standards or compliance schedules than sources located outside such areas. This section applies only to those geographical areas and source categories under the direct jurisdiction of the department.

WAC 173-400-100 REGISTRATION

The owner or operator of each stationary source within the following source categories shall register the source with the department unless such registration is required by an air pollution control authority with jurisdiction over the source or unless the source is under the jurisdiction of the state energy facility site evaluation council (EFSEC).

(1) Agricultural drying and dehydrating operations;
(2) Asphalt plants;
(3) Cattle feedlots with facilities for one thousand or more cattle;
(4) Chemical plants;
(5) Ferrous foundries;
(6) Fertilizer plants;
(7) Grain handling, seed processing, pea and lentil processing facilities;
(8) Mineralogical processing plants;
(9) Nonferrous foundries;
(10) Oil refineries;
(11) Other metallurgical processing plants;
(12) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;
(13) Rendering plants;
(14) Scrap metal operations;
(15) Veneer dryers;
(16) Wood waste incinerators including wigwam burners;
(17) Other incinerators designed for a capacity of one hundred pounds per hour or more;
(18) Stationary internal combustion engines rated as five hundred horsepower or more;
(19) Sawmills; including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;
(20) Any category of stationary sources to which a federal standard or performance applies;
(21) Any source which emits a contaminant subject to a national emission standard for hazardous air pollutants;
(22) Any other source which has a potential emission rate of one hundred tons per year of any air contaminant for which a state or federal ambient air quality standard has been established except carbon monoxide; and

(23) Any source with potential emission rate of one thousand tons per year of carbon monoxide.

Registration shall be on forms to be supplied by the department or local authority within the time specified thereon.

A report of closure shall be filed with the department whenever operations producing emissions are permanently ceased at any source within the above categories.

WAC 173-400-110 NEW SOURCE REVIEW

(1) Whenever the construction, installation or establishment of a new stationary source is contemplated, and such source is within a source category listed in WAC 173-400-100, the owner or operator thereof shall file a notice of construction with the department unless the filing of such a notice is required by an air pollution control authority with jurisdiction over the source. This requirement shall also apply to any source for which a federal standard of performance has been promulgated prior to the filing of the notice of construction. A list of sources for which a federal standard of performance or a national emission standard for hazardous air pollutants (NESHAPS) has been promulgated, and the standards which apply to such sources, shall be available at the headquarters office and each regional office of the department of ecology.

(2) Whenever the construction, installation or establishment of any new stationary source, except single-family and duplex dwellings, is contemplated and such source is not within a source category listed in WAC 173-400-100, the department may require the owner or operator thereof to file a notice of construction with the department. The department shall impose no such requirement if such a notice is required by an air pollution control authority with jurisdiction over the source.

(3) (a) The addition to or enlargement or replacement of or major alteration in any stationary source already existing which is undertaken pursuant to an approved variance which includes a compliance schedule for the reduction of emissions therefrom shall be exempt from the requirements of this section.

(b) The replacement of air pollution control equipment in an existing process which will not increase potential emissions and will not increase ambient air concentrations of any pollutant does not require a notice of construction provided no changes are made in the process or the size of the source. The department or local air pollution authority with jurisdiction over the source shall be notified of such proposed change. Demonstration of nonapplicability of notice of construction requirement will be the responsibility of the owner or operator.

(c) Addition to, enlargement, modification, replacement or alteration of any process or source, other than the replacement of air pollution control equipment as covered in WAC 173-400-110 (3)(b), which will increase potential emissions or ambient concentration of any contaminant for which a federal or state emission or ambient standard has been set, will require the filing of a notice of construction. The new source review will apply to that part of the source which is affected and for the contaminants which may be increased.

(4) Any contemplated new stationary source subject to the provisions of chapter 80.50 RCW, energy facilities siting act, shall comply with the provisions of that statute in lieu of the provisions of this section.

(5) Within thirty days of receipt of a notice of construction, the department may require the submission of plans, specifications and such other information as deemed necessary for the review of the proposed project.

(6) The department shall review notices of construction and plans, specifications and other information associated therewith in order to determine that:

(a) The proposed project will be in accord with applicable rules and regulations in force pursuant to chapter 70.94 RCW, including a determination that the operation of the new stationary source at the location proposed will not result in any applicable federal or state ambient air quality standard being exceeded.

(b) The proposed project will utilize best available control technology (BACT) for emission control. If the source is a major source and is located in a nonattainment area it will comply with the lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated. Compliance with federal emission standards for hazardous air pollutants and new source performance standards (NSPS) when applicable to the source will be required. BACT, LAER and NSPS will be required only for those pollutants which will increase potential emissions due to the proposed project.

(c) The proposed project meets all requirements of prevention of significant deterioration regulations if applicable.

(d) The proposed project will not violate the requirements for reasonable further progress established by the implementation plan. If the new source is a major source and is located in a nonattainment area or whose emissions significantly effect a nonattainment area, the total allowable emissions from existing sources and the new source, of the contaminants for which nonattainment has been designated, must be less than allowable emissions from existing sources at the time the application for approval was filed.

(e) The emissions from the proposed source will not delay the attainment date for any nonattainment area.

(7) Within thirty days after receipt of all information required by it, the department shall:

(a) Make preliminary determinations on the matters set forth in WAC 173-400-110 (6);

(b) Make available in at least one location in the county or counties in which the proposed project is located, a copy of the preliminary determinations and copies of or a summary of the information considered in making such preliminary determinations; and

(c) Require the applicant to publish notice to the public of the opportunity for written comment on the preliminary determinations within thirty days from the date such notice is made.

(8) If, after review of all information received, including public comment with respect to any proposed subject, the department makes the determination of (6)(a), (6)(b), (6)(c), (6)(d) or (6)(e) in the negative, it shall issue an order for the prevention of the construction, installation or establishment of the new stationary source.

(9) If, after review of all information received, including public comment with respect to any proposed project, the department makes the determinations of (6)(a), (6)(b), and where applicable, (6)(c), (6)(d) and (6)(e) in the affirmative, it shall issue an order of approval of the construction, installation or establishment of the new stationary source. The order of approval may provide such conditions of operation as are reasonably necessary to assure the continuous compliance with chapter 70.94 RCW and the applicable rules and regulations in-force pursuant thereto.

(10) For sources which locate temporarily (one year or less) at particular sites, the owner or operator shall be permitted to operate at a temporary location without filing a notice of construction, providing that the owner or operator notifies the department of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable the department to determine that the operation will comply with the emission standards for a new source and with the applicable ambient air standards. The permission to operate shall be for a limited period of time and the department may set specific conditions for operation during said period. A temporary source shall be required to comply with all applicable emission standards. [Order DE 76-38, section 173-400-110, filed 12/21/76. Formerly WAC 18-04-110].

(11) The owner or operator of a proposed new source shall not commence operations until written permission to commence has been granted by the department or authority.

WAC 173-400-115 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES.

Title 40, code of federal regulations, part 60 (standards of performance for new stationary sources), as promulgated prior to November 1, 1978 is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrtor" as used therein shall refer to the department or to the appropriate air pollution control authority.

(1) Sections 60.5 and 60.6 of title 40, code of federal regulations, are not incorporated herein because they provide for preconstruction review of new stationary sources only on request. By virtue of WAC 173-400-110, such review under the state program is mandatory and an order of approval is required before the construction, installation or establishment of a new stationary source may commence.

(2) Energy facility siting: The requirements of WAC 173-400-115 do not apply to any sources under the jurisdiction of the energy facility site evaluation council (EFSEC).

(3) As of November 1, 1978 the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following:

(a) incinerators (more than fifty tons per day)

(b) portland cement plants

(c) nitric acid plants

(d) sulfuric acid plants

(e) asphalt concrete plants

(f) petroleum refineries

(g) storage vessels for petroleum liquids (more than forty thousand gallons)

(h) secondary lead smelters

(i) secondary brass and ingot production plants

(j) iron and steel plants

(k) sewage treatment plants (sewage sludge incinerators)

(l) primary copper smelters

(m) primary zinc smelters

(n) primary lead smelters

(o) primary aluminum reduction plants

(p) phosphate fertilizer industry: wet process phosphoric acid plants

(q) phosphate fertilizer industry: super phosphoric acid plants

(r) phosphate fertilizer industry: diammonium phosphate plants

(s) phosphate fertilizer industry: triple super phosphate plants

(t) phosphate fertilizer industry: granular triple super phosphate storage facilities

(u) coal preparation plants

(v) ferroalloy production

(w) steel plants: electric arc furnaces

(x) kraft mills

(y) lime manufacturing plants

(z) grain elevators

Compliance with the standards for affected facilities within these source categories shall be determined by performance tests and visual observations of opacity as set forth in the regulations adopted by reference hereby.

(4) The "appropriate air pollution control authority" as used in this section means an activated authority which has been delegated enforcement authority for this section, 173-400-115 WAC, and which is enforcing the federal regulations hereby adopted by reference or its own more stringent regulations applicable to the same sources, and within whose boundary a new stationary source is proposed.

WAC 18-04-120 MONITORING AND SPECIAL REPORT

(1) Monitoring.

The department shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

As a part of this program, the director or his authorized representative may require any source under the jurisdiction of the department to conduct stack and/or ambient air monitoring, and to report the results to the department.

(2) Investigation of conditions.

For the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere the director, or his authorized representative, shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families. No person shall refuse entry or access to the director, or his authorized representative, when entry is requested for the purpose of inspection and appropriate credentials are presented; nor shall any person obstruct, hamper, or interfere with any such inspection.

(3) Source testing.

In order to demonstrate compliance with this regulation, the director, or his authorized representative, may require that a test be made of the source in a manner approved by the department. The operator of a source may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of the source. The department shall be allowed to obtain a sample from any source. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(4) Abnormal operations or upset conditions.

(a) Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported to the department or appropriate air pollution control authority within one working day. Abnormal operations such as startup and shutdown operations can be anticipated and must be reported in advance of the ocurrence of the abnormal operation if it may result in emissions in excess of standards.

(b) Any period of excess emissions is presumed to be a violation unless and until the owner or operator demonstrates and the department or agency finds that:

(i) The incident was reported as required; and

(ii) Complete details were furnished the department or agency; and

(iii) Appropriate remedial steps have been taken; and

(iv) The incident was unavoidable.

(c) If the conditions of (b) above are met, the incident is excusable and a notice of violation will not be issued.

(d) If any of the conditions of (b) above are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.

(e) For the department or agency to find that an incident of excess emissions is unavoidable, the following conditions must be met:

(i) The process equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with minimizing emissions.

(ii) Repairs or corrections were made in an expeditious manner when the operator knew or should have known that emission limitations were being or would be exceeded. Expeditious repairs or corrections require off-shift or overtime labor if such utilization will reduce the extent of excess emissions.

(iii) The incident is not one in a recurring pattern which is indicative of inadequate design, operation or maintenance.

(iv) The amount and duration of the excess emissions as well as the impact of the emissions on ambient air quality were minimized by taking all reasonable steps.

(5) Continuous monitoring and recording. Owners and operators of the following categories of stationary sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned; or

(C) Only oil or a mixture of oil and gas is burned and opacity and particulate regulations can be met without using particulate collection equipment; and, the source has never, through any administrative or judicial procedure, been found in violation of any visible emission standard.

(ii) Sulfur dioxide, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Sulfur dioxide control equipment has not been installed.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emissions monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to the department by the owner or operator.

(b) Sulfuric acid plants.

Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries.

Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where:

Steam generator capacity is less than one-hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of WAC 173-400-120(5)(e) do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by WAC 173-400-120(5)(d) shall be subject to approval by the department.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this regulation shall demonstrate to the department compliance with the equipment and performance specifications, and observe the reporting requirements, contained in Title 40, code of federal regulations, part 51, appendix P, sections 3, 4 and 5, promulgated on October 6, 1975, which is by this reference adopted and incorporated herein.

(f) All sources subject to this regulation shall procure and install equipment and commence monitoring and recording activities no later than eighteen months after adoption of this regulation by the department. Any extension to this time requirement shall be negotiated through the variance procedure of WAC 173-400-150.

(g) Special considerations. If for reason of physical plant limitations or extreme economic situations, the department determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(h) Exemptions. This sub-section (5) does not apply to any source which is:

(i) Subject to a new source performance standard. These sources will be governed by section 115.

(ii) Not subject to an applicable emission standard.

(iii) Schedules for retirement within five years after inclusion of monitoring equipment requirements in this regulation, provided that adequate evidence and guarantees are provided that clearly show that the source will cease operations prior to that date.

(i) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this regulation during periods of monitoring system malfunctions provided that the source owner or operator shows to the satisfaction of the department that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Emission inventory. The owner or operator of any air contaminant source shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology or local air pollution control agency. The inventory may include stack and fugitive emissions of particulates, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, volatile organic compounds, and other contaminants, and shall be submitted when required no later than forty five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and 24-hour emissions while operating at maximum capacity. The report shall include the average sulfur content of any fuel or raw material used which will result in emissions of more than twenty five tons per year of sulfur dioxide.

(7) Change in raw materials or fuels. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of fifty tons per year or more over that stated in the initial inventory required by chapter 173-400-120(6) WAC shall require the submittal of sufficient information to the department or local authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. The department may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

WAC 173-400-130 REGULATORY ACTIONS.

The department may take any of the following regulatory actions to enforce this chapter.

(1) Notice of violation. Whenever the department has reason to believe that any provision of this chapter has been violated, it may cause written notice to be served on the alleged violator or violators. The notice shall specify the provisions of this chapter alleged to be violated and the facts alleged to constitute a violation thereof, and may

include an order that necessary corrective action be taken within a reasonable time.

(2) Civil penalty.

Whenever any person violates any of the provisions of this chapter, he shall be subject to a penalty in the form of a fine in an amount not to exceed two hundred and fifty dollars per day for each violation. Each such violation shall be separate and distinct and, in case of a continuing violation, each day's continuance shall be a separate and distinct violation. The penalty shall be imposed by a notice in writing from the director, or his authorized representative, describing the violation with reasonable particularity.

(3) Assurance of discontinuance.

The director, or his authorized representative, may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

(4) Restraining orders, injunctions.

Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the director, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) Emergency episodes.

The department may issue such orders as authorized by chapter 194, Laws of 1971, ex. sess., whenever an air pollution episode is forecast.

WAC 173-400-135 CRIMINAL PENALTIES

Persons in violation of this chapter may be subject to the provisions of RCW 70.94.430.

WAC 173-400-140 APPEALS

Decisions and orders of the department may be appealed to the pollution control hearings board pursuant to Chapter 43.21B RCW and Chapter 371-08 WAC. (Formerly WAC 18-04-140.)

WAC 173-400-150 VARIANCE

Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to the department for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) Sources in any area over which a local air pollution control agency has jurisdiction shall make application to the board of that agency rather than the department. The department or board may grant such variance, but only after public hearing or due notice.

(2) Variances granted by a local agency board for sources under their jurisdiction will be accepted as variances to this regulation.

(3) No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the federal environmental protection agency.

WAC 173-400-160 MAINTENANCE OF PAY

Any source which uses a supplemental or intermittent control system for the purpose of meeting the requirements of Section 123, Section 113(d), or Section 119 of the Clean Air Act, as amended, shall not temporarily reduce the pay of any employee because of the use of the supplemental or intermittent or other dispersion-dependent control systems.

WAC 173-400-170 REQUIREMENTS FOR BOARDS AND DIRECTOR

(1) A majority of the members of any local air pollution control authority board shall represent the public interest. A majority of the members of such boards, and the director, shall not derive any significant portion of their respective incomes from persons subject to permits or enforcement orders pursuant to the state and Federal Clean Air Acts. An elected public official, and the director, shall be presumed to represent the public interest. In the event that a director derives a significant portion of his income from persons subject to permits or enforcement orders, he shall delegate sole responsibility for administration of any part of the program which involves these persons to the deputy director or an assistant director, as appropriate.

(2) Each member of any local board and the director, shall adequately disclose any potential conflict of interest in any matter prior to any action or consideration thereon, and the member or director shall remove himself from participation as a board member in any action or voting on such matter.

(3) For the purposes of this section, "significant portion of income" shall mean twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" shall mean fifty percent of income in the form of pension or retirement benefits from a single source other than social security. Income derived from employment with local or state government shall not be considered in the determination of "significant portion of income."

CHAPTER 173-405 WAC

KRAFT PULPING MILLS

WAC 173-405-011 STATEMENT OF POLICY AND PURPOSE

(1) These rules are enacted under the provisions of the 1969 amendments to the "Washington Clean Air Act" (Chapter 70.94 RCW, Chapter 168, Section 39, Laws of 1969, 1st ex. sess.) to assume state jurisdiction over emission from those pulping mills traditionally referred to as the kraft pulping process, except those covered by Chapter 173-410 WAC in order to provide for the systematic reduction and control of air pollution in the kraft pulping industry.

(2) Recent technological developments have enhanced the degree of malodorous emission control possible for the kraft pulping process. It is hereby declared to be the policy of the Department to:

(a) Require, in accordance with a specific program and timetable for each operating mill, the highest and best practicable treatment and control of emissions from kraft mills through the utilization of technically feasible equipment, devices, and procedures.

(b) Require the efficient maintenance and operation of emission control, capture, and treatment equipment.

(c) Require effective monitoring and reporting of emissions and reporting of other data pertinent to air quality or emissions. The Department will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission standards and air quality standards, and to determine compliance or noncompliance therewith.

(d) Encourage and assist the kraft pulping industry to conduct a research and technological development program designed to progressively reduce kraft mill emissions, in accordance with a definite program, including specified objectives and time schedules.

(e) Establish standards deemed to be technically feasible and reasonably attainable, with the intent of revising the standards as new information and better technology are developed.

WAC 173-405-021 DEFINITIONS

(1) "Abnormal operation" means a process operation other than a normal operation which may result in emissions that exceed emission standards. An abnormal operation can be anticipated and planned.

(2) "Air quality standard" means an established concentration, exposure time and frequency of occurence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(3) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards set forth in 40 C.F.R. part 60 and part 61.
(ii) The applicable state implementation plan emission limitation, or
(iii) The emission rate specified as a permit condition.

(4) "Best available control technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this chapter which would be emitted from any proposed stationary source or modification which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 C.F.R. part 60 and part 61. If the reviewing agency determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. For the purposes of this chapter, the requirement of RCW 70.94.152 that a new source should provide "all known available and reasonable methods of emission control" means the same as best available control technology.

(5) "Commenced construction" means that an owner or operator has undertaken a continuous program of construction or modification or an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(6) "Continual monitoring" means sampling and analysis in a continuous or timed sequence, using techniques which will adequately reflect actual emission levels or concentrations on a continuous basis.

(7) "Department" means the state of Washington department of ecology.

(8) "Emission" means a release into the outdoor atmosphere of air contaminants.

(9) "Emission standard" means a limitation on the release of a contaminant or multiple contaminants to the ambient air.

(10) "Equivalent air-dried kraft pulp" means unbleached pulp production which produces a loading of black liquor solids to the recovery furnace eqivalent to that loading produced with kraft pulp.

(11) "Fugitive dust" means a type of particulate emission made airborne by forces of wind, man's activity, or both, such as unpaved roads, construction sites, or tilled land. Two major categories are anthropogenic sources (those which result directly from and during human activities) and wind erosion sources (those resulting from erosion of soil by wind). Fugitive dust is distinguished from fugitive emissions.

(12) "Fugitive emission" means contaminants which are generated by industrial or other activities not covered by the fugitive dust definition, and which are released to the atmosphere through openings such as windows, vents or doors, ill-fitting oven closures, rather than through primary exhaust systems or are reentrained from unenclosed material handling operations. Aggregate storage operations and active tailing piles are included in this category of sources.

(13) "Fugitive particulate" means particulate material which is generated incidental to an operation, process or procedure and is emitted into the open air from points other than an opening designed for emissions such as a stack or vent.

(14) "Kraft mill" means any manufacturing facility which uses an alkaline solution containing sodium hydroxide and/or sodium sulfide, and any other chemical pulping facility, except those covered by Chapter 173-410 WAC, to produce pulp and/or paper products from wood fibers.

(15) "Lowest achievable emission rate (LAER)" means for any source, that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitation is not achievable, or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(16) "Major source" means any source which has potential emissions exceeding one hundred tons per year or more of particulates, sulfur dioxide, nitrogen oxide, carbon monoxide, or hydrocarbons.

(17) "Major modification" means an addition, alteration or other change in a source which will increase potential emissions of particulates, sulfur dioxide, nitrogen oxide, carbon monoxide, or hydrocarbons by one hundred tons per year or more.

(18) "New source" means a source which commenced construction after January, 1972. Addition to, enlargement, modification, replacement, or any alteration of any process or source which will increase potential emissions or ambient air concentrations of any contaminant for which federal or state ambient air emissions standards have been established shall be construed as construction or installation or establishment of a new source.

(19) "Nonattainment area" means a clearly delineated geographic area which has been designated pursuant to federal law as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(20) "Noncondensibles" means gases and vapors from the digestion and evaporation processes of a mill that are not condensed with the equipment used in those processes.

(21) "Opacity" means the degree to which an object seen through a plume is obscured, excluding uncombined water droplets.

(22) "Other sources" means sources of odorous sulfur emissions including, but not limited to, vents from knotters, brown stock pulp washers, multiple-effect evaporators, digesters, blow tanks, smelt tanks, blow heat accumulators, black liquor storage tanks, black liquor oxidation systems, tall oil recovery operations, and any operation connected with the handling of condensate liquids within the mill or any vent which may be a significant contributor of odorous gases.

accumulators

(23) "Particulate matter" means a small, discrete mass of solid or liquid matter, but not including uncombined water.

(24) "p.p.m. (parts per million)" means parts of a contaminant per million parts of gas by volume.

(25) "Potential emissions" means the emissions of a pollutant from a source operated at maximum capacity in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum

annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential rate of a source.

(26) "Reasonably available control technology (RACT)" means the lowest emission limit that a kraft mill is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual mill taking into account the impact of the source upon air quality, the availability of additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for kraft mills may be adopted as an order or regulation after public hearing.

(27) "Recovery furnace stack" means the stack from which the products of combustion from the recovery furnace are emitted to the ambient air.

(28) "Standard condition" means a temperature of 60°F and a pressure of 29.92 inches of mercury.

(29) "Total reduced sulfur, (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present.

(30) "Upset" means an unexpected sudden occurrence which may result in emissions in excess of emission standards.

WAC 173-405-031 SPECIFIC EMISSION STANDARDS

(1) All emission standards in this section are based on average daily emissions. These limitations do not preclude a requirement to install the highest and best practicable treatment and control available. No kraft mill shall cause or permit emissions in excess of the limits listed below.

(4) The emission of particulate matter from all recovery furnace stacks shall not exceed four pounds per ton of equivalent air-dried kraft pulp. Where necessary, particulate emission limitations may be set lower by the department.

(5) The emission of particulate matter from all lime kilns shall not exceed one pound per ton of equivalent air-dried kraft pulp.

(6) The emission of particulate material from all smelt tanks shall not exceed one-half pound per ton of equivalent air-dried kraft pulp.

WAC 173-405-033 STANDARDS OF PERFORMANCE

For kraft mills which commenced construction after September 24, 1976, Title 40, Code of Federal Regulations part 60, subparts A, and BB and Appendix A, B, C and D as promulgated prior to November 1, 1979 is by this reference adopted and incorporated herein with the exception of Sections 60.5 (Determination of Construction or Modification) and 60.6 (Review of Plans). For the purpose of state administration of the Federal Regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department.

WAC 173-405-036 GENERAL EMISSION STANDARDS AND NUISANCE CONTROL MEASURES

In addition to the limits of WAC 173-405-031, no kraft mill shall cause or permit emissions or nuisances listed herein.

(1) The emission of particulate matter from stacks of all particulate emission sources, excluding the recovery furnaces, lime kilns, and smelt tanks, shall not exceed one-tenth (0.10) grains per standard cubic foot of dry exhaust gas.

(2) Each kraft mill shall take reasonable precautions to prevent fugitive particulate material from becoming airborne:

  (a) When handling, transporting or storing particulate material on the mill site.

  (b) When constructing, altering, repairing, or demolishing a building, its appurtenances, or a road;

  (c) From an untreated open area.

(4) No kraft mill shall cause or permit the emission of particulate matter from any source which becomes deposited beyond the property under direct control of the owner or operator of the kraft mill in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material was deposited.

WAC 173-405-061 MORE RESTRICTIVE EMISSION STANDARDS

The department may establish more restrictive emission standards for new mills or for mills expanding existing facilities. Data documenting projected emissions and changes in, or effects upon, air quality, that would result from the construction or expansion, must be submitted to the department together with plans and specifications in accordance with the provisions of WAC 173-405-081.

WAC 173-405-071 MONITORING AND REPORTING

(2) Each mill shall sample the recovery furnace, lime kiln, and smelt tank for particulate emissions on a regularly scheduled basis in accordance with its approved sampling program.

(3) Each mill shall submit within sixty days after effective date of this regulation a detailed monitoring program and time schedule for approval by the department. The equipment shall be ordered within thirty days after the monitoring program has been approved in writing by the department. The equipment shall be placed in effective operation in accordance with the approved program within ninety days after delivery.

(4) Unless otherwise authorized by the department, data shall be reported by each mill at the end of each calendar month, as follows:

  (d) Emission of particulates in pounds per equivalent air-dried ton of pulp produced in the kraft cycle based upon sampling conducted in accordance with the approved monitoring program.

  (e) Average daily equivalent kraft pulp production in air-dried tons.

(5) Each kraft mill shall furnish, upon request of the department, such other pertinent data as the board may require to evaluate the mill's emission control program.

WAC 173-405-077 ABNORMAL OPERATIONS OR UPSET CONDITIONS

(1) Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported promptly to the department or appropriate air pollution control authority. Abnormal operations such as startup and shutdown operations which can be anticipated must be reported in advance of the occurrence of the abnormal operation if it may result in emissions in excess of standards. Each kraft mill shall, upon the request of the department or its delegated agency, submit a full written report including the known causes and the preventive measures to be taken to prevent a recurrence.

(2) Any period of excess emissions is presumed to be a violation unless and until the owner or operator demonstrates, and the department finds that:

(a) The incident was reported as required;

(b) Complete details were furnished the department or agency;

(c) Appropriate remedial steps were taken to minimize excessive emissions and their impact on ambient air quality; and

(d) The incident was unavoidable.

(3) If the conditions of (2) above are met, the incident is excusable and a notice of violation will not be issued.

(4) If any of the conditions of (2) above are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.

(5) For the department to find that an incident of excess emissions is unavoidable, the kraft mill must submit sufficient information to demonstrate the following conditions were met:

(a) The process equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with minimized emissions.

(b) Repairs or corrections were made in an expeditious manner when the operator knew or should have known that emission limitations were being or would be exceeded.

(c) The incident is not one in a recurring pattern which is indicative of inadequate design, operation or maintenance.

WAC 173-405-101 EXEMPTION

These regulations do not apply to open burning, solid waste incineration, hog fuel boilers, chlorine-caustic electrolytic plants, and power boiler operations conducted at the site of and ancillary to the kraft pulp mill operation.

CHAPTER 173-410 WAC

SULFITE PULPING MILLS

WAC 173-410-011 STATEMENT OF POLICY AND PURPOSE

(1) These rules are enacted under the provisions of the "Washington Clean Air Act" (Chapter 70.94 RCW, Chapter 168, Section 39, Laws of 1969, 1st. Ex. Sess.) to assume state jurisdiction over emissions from sulfite pulping mills in order to provide for the systematic reduction and control of air pollution in the sulfite pulping industry.

(2) It is the policy of the Department:

(a) To require, in accordance with a specific program and timetable for each operating mill, the highest and best practicable treatment and control of emissions from sulfite mills through the utilization of technically feasible equipment, devices, and procedures.

(b) To require the efficient maintenance and operation of emission control, capture and treatment equipment.

(c) To require the evaluation of improved and effective measuring techniques for sulfur oxides, total reduced sulfur, particulates, and other emissions from sulfite pulping mills.

(d) To require effective measuring and reporting of emissions and reporting of other data pertinent to emissions. The Department will use these data in conjunction with ambient air data and observation of conditions in the surrounding area to develop and revise emission standards and air quality standards, and to determine compliance or noncompliance therewith.

(e) To encourage and assist the sulfite pulping industry to conduct a research and technological development program designed to progressively reduce sulfite mill emissions, in accordance with a definite program with specific objectives.

(f) To establish standards deemed to be technically feasible, reasonably attainable, and necessary for the attaining of satisfactory air quality with the intent of revising the standards as new information and better technology are developed.

WAC 173-410-021 DEFINITIONS

(1) "Abnormal operation" means a process operation other than normal operation which may result in emissions that exceed emission standards. An abnormal operation can be anticipated and planned.

(2) "Acid plant" means the facility in which the cooking liquor is either manufactured or fortified when not associated with a recovery system.

(3) "Air quality standard" means an established concentration, exposure time, and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(4) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(5) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards as set forth in 40 C.F.R. Part 60 and 61.

(ii) The applicable state implementation plan emission limitation.

(iii) The emission rate specified as a permit condition.

(6) "Ambient air" means the surrounding outside air.

(7) "Average daily emission" means total weight of an air contaminant emitted in each month, divided by the number of days of production that month.

(8) "Average daily production" means air dried tons of unbleached pulp produced in a month, divided by the number of days of production in that month.

(9) "Best available control technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this chapter which would be emitted from any proposed stationary source or modification which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 C.F.R. Part 60 and Part 61. If the reviewing agency determines that technological or economic limitations on

the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results. For the purposes of this chapter the requirement of RCW 70.94.152 that a new source should provide "all known available and reasonable methods of emission control" means the same as best available control technology.

(10) "Blow system" includes the storage chest, tank or pit to which the digester pulp is discharged following the cook.

(11) "Commenced construction" means that a owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(12) "Continual monitoring" means sampling and analysis in a continuous or time sequence, using techniques which will adequately reflect actual emission levels, ambient air levels or concentrations on a continuous basis.

(13) "Department" means the State of Washington Department of Ecology.

(14) "Director" means the director of the Department of Ecology or his authorized representative.

(15) "Emission" means a release into the outdoor atmosphere of air contaminants.

(16) "Emission standard" means a limitation on the release of a contaminant or multiple contaminants to the ambient air.

(17) "Fugitive dust" means a type of particulate emission made airborne by forces of wind, man's activity, or both, such as unpaved roads, construction sites, or tilled land. Two major categories are anthropogenic sources (those which result directly from and during human activities) and wind erosion sources (those resulting from erosion of soil by wind). Fugitive dust is distinguished from fugitive emissions.

(18) "Fugitive emission" means contaminants which are generated by industrial or other activities not covered by the fugitive dust definition and which are released to the atmosphere through openings such as windows, vents or doors, ill-fitting oven closures, rather than through primary exhaust systems or are reentrained from unenclosed material handling operations. Aggregate storage operations and active tailing piles are included in this category of sources.

(19) "Fugitive particulate" means particulate material which is generated incidental to an operation, process or procedure and is emitted into the open air from points other than an opening designed for emissions, such as a stack or vent.

(20) "Lowest achievable emission rate (LAER)" means for any source, that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(21) "Major source" means any source which has a potential emission limit of one one hundred tons per year or more of particulates, sulfur dioxide, nitrogen oxide, carbon monoxide, or hydrocarbons.

(22) "Major modification" means an addition, alteration, or other changes in a source which will increase potential emissions of particulates, sulfur dioxide, nitrogen oxide, carbon monoxide, or hydrocarbons by one hundred tons per year or more.

(23) "New source" means a source which commences construction after January, 1972. Addition to, enlargement, modification, replacement, or any alteration of any process or source which will increase potential emissions or ambient air concentrations of any contaminant for which federal or state ambient air emissions standards have been established shall be construed as construction or installation or establishment of a new source.

(24) "New source performance standard (NSPS)" means the federal regulations set forth in 40 C.F.R., Part 60.

(25) "Nonattainment area" means a clearly delineated geographic area which has been designated pursuant to federal law as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(26) "Opacity" means the degree to which an object seen through a plume is obscured, excluding uncombined water droplets.

(27) "Other sources" means sources of sulfur oxide emissions including, but not limited to, washers, washer filtrate tanks, digester dilution tanks, knotters, multiple effect evaporators, storage tanks, any operation connected with the handling of condensate liquids, or storage of condensate liquids, and any vent or stack which may be a significant contributor of sulfur oxide gases other than those included in the emission standard limitations in WAC 173-410-031.

(28) "p.p.m." (parts per million) means parts of a contaminant per million parts of gas by volume.

(29) "Particulate matter" means a small discrete mass of solid or liquid matter, but not including uncombined water.

(30) "Potential emissions" means the emissions of a pollutant from a source operated at maximum capacity in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential rate of a source.

(31) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category may be adopted as an order or regulation after public hearing.

(32) "Recovery system" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, storage facilities, and emission control equipment associated with the recovery cycle.

(33) "Special station" means any station that does not meet the criteria or purpose of the standard stations are defined as special stations.

(34) "Standard conditions" means a temperature of 60°F and a pressure of 29.92 inches of mercury.

(35) "Sulfite pulping mill" means any manufacturing facility which uses a cooking liquor consisting of sulfurous acid, a sulfite or bisulfite salt alone or in any combination, with or without additional mechanical refining or delignification to produce pulp, pulp products, or cellulose from wood fibers.

(36) "Sulfur oxides" means sulfur dioxide, sulfur trioxide, and other sulfur oxides.

(37) "Total reduce sulfur (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and other organic sulfides present.

(38) "Upset" means an unexpected sudden occurence which may result in emissions in excess of emission standards.

or a portion of a sulfite pulping mill

WAC 173-410-031 SPECIFIC EMISSION STANDARDS

(1) No sulfite pulping mill shall cause or permit emissions in excess of the limits listed below. The total average daily emissions from a sulfite pulping mill or a portion of a sulfite pulping mill which practices incineration of the spent sulfite liquor, shall not exceed 20 pounds of sulfur dioxide per tons of air dried, unbleached air pulp

(2) The total average daily emissions from a sulfite pulping mill, or a portion of a sulfite pulping mill that does not incinerate the spent sulfite liquor, shall not exceed four pounds of sulfur dioxide per ton of air dried, unbleached pulp produced.

(3) The blow system emissions shall not exceed 0.2 pounds of sulfur dioxide per minute, on a 15 minute average, per ton of air dried, unbleached pulp discharged from the digester.

(4) Emissions from the recovery system and acid plant, shall not exceed 800 ppm (dry) of sulfur dioxide for any hourly average.

(5) The total average daily emission of particulate matter from the recovery system, shall not exceed four pounds per ton of air dried, unbleached pulp produced.

(6) Mills of less than 150 tons of air dried, unbleached pulp per day, may be exempted from the limitations of subsection (1), (2), and (3) above, provided:

(a) That the schedule of compliance required by WAC 173-410-051 demonstrates that a minimum of 80% collection efficiency for sulfur dioxide will be maintained and compliance will be achieved no later than December 31, 1975.

(b) That the emission of sulfur dioxide shall not result in an ambient concentration greater than 0.8 ppm for any five minute average, and that other state ambient air standards shall not be exceeded, at a primary air mass station, a primary ground level monitoring station, or a special station.

WAC 173-410-036 GENERAL EMISSION STANDARDS AND NUISANCE CONTROL MEASURES

In addition to the limits of Section 031, no sulfite pulping mill shall cause or permit emissions or nuisances listed herein:

(1) The emission of particulate matter from stacks of all particulate emission sources, excluding the acid plant and recovery furnace, shall not exceed one tenth (0.10) grains per standard cubic foot of dry exhaust gas.

(2) Each sulfite mill shall take reasonable precautions to prevent fugitive particulate material from becoming airborne:

material

(a) When handling, transporting or storing particulate material when on the mill site.

(b) When constructing, altering, repairing or demolishing a building, its appurtenances or a road;

(c) From an untreated open area.

(4) No sulfite mill shall cause or permit the emission of particulate matter from any source which becomes deposited beyond the property under direct control of the owner or operator of the sulfite mill in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material was deposited.

173-410-041

WAC 173-410-041 MORE RESTRICTIVE EMISSION STANDARDS

(1) Notwithstanding the specific emission limits set forth in this chapter, the Department may, after notice and hearing, establish more restrictive emission limits and compliance schedules for mills located in recognized problem areas, for new mills, for mills expanding existing facilities, for mills installing substantial modifications of existing facilities which result in increased emissions, or for mills in areas where it is shown ambient air quality standards are exceeded.

(2) After the effective date of this regulation, any sulfite pulping mill constructed, enlarged, replaced, modified, or altered in any way that would create a new source of emission or increase emissions, shall meet the following provisions:

(a) Under no circumstances will any mill be allowed to operate with emission levels above those established by WAC 173-410-031 and WAC 173-410-036.

(b) It is the intent of the Department to establish, for each mill covered by this section, a maximum operating standard for the recovery system, of 300 ppm of SO_2, dry, as an hourly average, and a total average daily particulate emission limitation of 2½ pounds per ton of air dried, unbleached pulp produced; or such other concentrations as could be achieved: 1) by utilization of best practicable technology; or 2) where factors, such as urban proximity, population density, mill location, topography, and meteorological conditions make the need for lesser allowable emissions appear desirable and necessary. The operating standard for each mill shall be set by the Department, prior to approval of construction.

(c) In keeping with the intent expressed in WAC 173-410-041 (2)(b) each mill shall, prior to construction, submit to the Department design information, including cost and operating information as requested by the Department, that would limit SO_2 emissions from new recovery systems to 200 ppm, dry, as an hourly average; and that would limit particulate emissions to 2 pounds per ton of air dried, unbleached pulp produced.

(d) If the Director has reason to believe that the emission from the source is a cause of public nuisance or a cause of violation of ambient air quality standards, the source shall, within 90 days from notification of such occurrence, achieve operation that will prevent further recurrence of the nuisance or violation.

WAC 173-410-051 COMPLIANCE

Compliance shall be in accordance with the procedures set forth in Chapter 18-60 WAC but in no case shall full compliance be later than the time limitations established in WAC 173-410-031.

WAC 173-410-061 MONITORING AND REPORTING

(1) Each mill shall submit, within sixty days of the date of adoption, a detailed sampling and testing program, and time schedule for approval by the Department.

(2) The monitoring equipment shall be capable of determining compliance with the emission limits established by these regulations, and shall be capable of continual sampling and recording of concentrations of sulfur dioxide contaminants from the recovery system.

(3) Each mill shall sample the recovery system, blow system, and acid plant for sulfur dioxide emissions on a regularly scheduled basis.

(4) Each mill shall sample the recovery furnace stacks for particulate on a regularly scheduled basis.

(5) Unless otherwise authorized, data for each calendar month shall be reported for each mill as follows:

(a) For the recovery system, acid plant, and other sources:

(i) Average daily emissions of sulfur dioxide, expressed as pounds of sulfur dioxide per ton of air dried, unbleached pulp produced, and pounds of sulfur dioxide per day.

(ii) Daily average concentrations of sulfur dioxide and, for all hours greater than 800 ppm, dry, the hourly concentrations and hour. All concentrations shall be expressed in ppm. dry. For mills covered by WAC 173-410-041 hourly concentrations of SO_2 greater than 200 ppm, dry, shall be reported.

(iii) Average daily emissions of particulates in pounds per ton of air dried, unbleached pulp.

(b) For the blow system, the pounds of sulfur dioxide per minute on a 15 minute average per ton of air dried, unbleached pulp discharged from the digester.

(c) The average daily production of air dried, unbleached pulp, and the maximum daily production.

(d) Reports shall be submitted within 10 days after the end of each calendar month.

(6) For mills operating under the provisions of WAC 173-410-031(6), an ambient monitoring program acceptable to the Department must be established, and the results submitted monthly.

(7) Each mill shall furnish, upon request of the Department, such other pertinent data as the Department may require to evaluate the mill's emission control program.

(8) All measurements shall be made in accordance with techniques approved by the Department.

WAC 173-410-067 ABNORMAL OPERATIONS OR UPSET CONDITIONS

(1) Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported promptly to the department or appropriate air pollution control authority. Abnormal operations such as startup and shutdown operations which can be anticipated must be reported in advance of the occurrence of the abnormal operation if it may result in emissions in excess of standards. Each sulfite plant shall, upon the request of the department or delegated agency, submit a full written report including the known causes and the preventive measures to be taken to prevent a recurrence.

(2) Any period of excess emissions is presumed to be a violation unless and until the owner or operator demonstrates, and the department finds that:

(a) The incident was reported as required;

(b) Complete details were furnished the department or agency;

(c) Appropriate remedial steps were taken to minimize excessive emissions and their impact on ambient air quality, and

(d) The incident was unavoidable.

(3) If the conditions of (2) above are met, the incident is excusable and a notice of violation will not be issued.

(4) If any of the conditions of (2) above are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.

(5) For the department to find that an incident of excess emissions is avoidable, the sulfite mill must submit sufficient information to demonstrate that the following conditions were met:

(a) The process equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with minimized emissions.

(b) Repairs or corrections were made in an expeditious manner when the operator knew or should have known that emission limitations were being or would be exceeded.

(c) The incident is not one in a recurring pattern which is indicative of inadequate design, operation or maintenance.

WAC 173-410-071 EMISSION INVENTORY

The owner or operator of any sulfite pulping mill shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the Department of Ecology or local air pollution control agency. The inventory may include stack and fugitive emissions of particulates, sulfur dioxide, carbon monoxide, volatile organic compounds, TRS, and other contaminants, and shall be submitted when required no later than forty-five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at maximum capacity. The report shall include the average sulfur content of any fossil fuel or raw material used which will result in emissions of more than twenty-five tons per year of sulfur dioxide.

WAC 173-410-086 NEW SOURCE REVIEW

(1) Whenever the construction, installation, or establishment of a new sulfite pulp mill is contemplated, the owner or operator thereof shall file a notice of construction with the Department of Ecology.

(2) (a) The replacement of air pollution control equipment or process equipment in an existing process which will not increase potential emissions and will not increase ambient air concentrations of any pollutant does not require a notice of construction provided no changes are made in the process or the size of the source. The Department of Ecology shall be notified of such proposed change. Demonstration of nonapplicability of notice of construction requirement will be the responsibility of the owner or operator.

(b) Addition to, enlargement, modification, replacement, or alteration of any process or source, other than the replacement of equipment as covered in Subsection (2)(a) of this section, which will increase potential emissions or ambient concentration of any contaminant for which a Federal or state emission or ambient standard has been set, will require the filing of a notice of construction. The new source review will apply to that part of the source which is affected and for the contaminants which may be increased.

(3) Within thirty days of receipt of a notice of construction, the department may require the submission of plans, specifications, and such other information as deemed necessary for the review of the proposed project.

(4) The Department of Ecology shall review the notice of construction and plans, specifications, and other information associated therewith in order to determine that:

(a) The proposed project will be in accord with applicable rules and regulations in force pursuant to Chapter 70.94 RCW, including a determination that the operation of the new source at the location proposed will not result in any applicable federal or state ambient air quality standard being exceeded.

(b) The proposed project will utilize best available control technology (BACT) for emission control.

(c) If the source is a major source or a major modification of an existing source and is located in a nonattainment area, the owner or operator shall demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in the state are subject to emission limitations and are in compliance or on a schedule for compliance with applicable emission limitations and standards under the Federal Clean Air Act.

(d) If the source is a major source or a major modification of an existing source and is located in a nonattainment area, the source will comply with the lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated, except

(i) when the allowable emissions of particulates, sulfur dioxide, carbon monoxide, nitrogen dioxide, or hydrocarbons will not exceed fifty tons per year, one thousand pounds per day, or one hundred pounds per hour; or

(ii) if the source is located in a clean area of a nonattainment area and the allowable emission will not cause or significantly contribute to a violation of the national ambient air quality standards (NAAQS). Significance in this context will be determined by the emission offset interpretive ruling, Paragraph II.D, 44 Federal Register 3283.

(e) Compliance with Federal emission standards for hazardous air pollutants and new source performance standards (NSPS) when applicable to the source will be required.

(f) The proposed project meets all requirements of prevention of significant deterioration regulations, if applicable.

(g) The proposed project will not violate the requirements for reasonable further progress established by the implementation plan. If the new source is a major source or a major modification of an existing source, and is located in a nonattainment area or whose emissions significantly affect a nonattainment area, the total allowable emissions from existing sources and the new source, of the contaminants for which nonattainment has been designated, must be less than allowable emissions from existing sources at the time the application for approval was filed, except

(i) when the allowable emissions of particulates, sulfur dioxide, carbon monoxide, nitrogen dioxide, or hydrocarbons will not exceed fifty tons per year, one thousand pounds per day, or one hundred pounds per hour;

(ii) if the source is located in a clean area of a nonattainment area and the allowable emissions will not cause or significantly contribute to a violation of the national ambient air quality standards (NAAQS). Significance in this context will be determined by the emission offset interpretive ruling, Paragraph II.D., 44 Federal Register 3283.

(h) The emissions from the proposed source will not delay the attainment date for any nonattainment area.

(i) The application of BACT, LAER, and NSPS required by Subsection (4)(b), (4)(d) and (4)(e) of this section will be only for those pollutants which will increase potential emissions due to the proposed project.

(5) Within thirty days after receipt of all information required by it, the Department of Ecology shall:

(a) Make preliminary determinations on the matters set forth in WAC 173-410-086(4).

(b) Make available in at least one location in the county or counties in which the proposed project is located, a copy of the preliminary determination, and copies of or a summary of the information considered in making such preliminary determinations.

(c) Require the applicant to publish notice to the public of the opportunity for written comment on the preliminary determinations within thirty days from the date such notice is made.

(6) If, after review of all information received, including public comment with respect to any proposed project, the department makes any of the determinations of (4)(a) through (h) of this section in the negative, it shall issue an order for the prevention of the construction, installation, or establishment of the new stationary source.

(7) If, after review of all information received, including public comment with respect to any proposed project, the department makes the determination of (4)(a), (4)(b), and where applicable (4)(c) through (h) in the affirmative, it shall issue an order of approval of the construction, installation, or establishment of the new plant or modification. The order of approval may provide such conditions of operation as are reasonably necessary to assure the continuous compliance with Chapter 70.94 RCW and the applicable rules and regulations in force pursuant therein. The owner or operator of the proposed project shall not commence construction until a notice of construction has been approved by the department.

(8) The owner or operator of a proposed new source shall not commence operations until written permission to commence has been granted by the department. Written permission to commence operation shall be granted within thirty days of receiving notification of completion of construction unless the department finds that construction, installation, or establishment is not in accord with the plans, specifications, or other information submitted to the department and used to approve the construction.

WAC 173-410-091 EXEMPTIONS

These regulations do not apply to open burning, solid waste incineration, hog fuel boilers, chlorine-caustic electrolytic cells, or any power boiler operations conducted at sulfite pulp mills, unless such boilers are used for incineration of sulfite waste liquor.

CHAPTER 173-425 WAC

OPEN BURNING

WAC 173-425-010 PURPOSE

This rule, promulgated under chapter 70.94 RCW, the Washington state clean air act, authorizes the department of ecology to implement the provisions of that act. This rule establishes controls for open burning in the state in order to:

(1) Minimize the impact of emissions from open burning;

(2) Establish rules and procedures by which open burning may be conducted;

(3) Encourage the development and use of alternate methods of disposal of combustible waste materials.

WAC 173-425-020 APPLICABILITY

The provisions of this chapter shall apply to open burning in all parts of the state except to:

(1) Burning of field and turf grasses grown for seed (governed by chapter 173-430 WAC).

(2) Open burning within the boundaries of any activated air pollution control authority where such authority is enforcing its own requirements for the control of open burning. These controls shall not be less stringent than the requirements in this chapter.

(3) Open burning for activities subject to the permit issuing authority of the department of natural resources, as set forth in RCW 70.94.660.

WAC 173-425-030 DEFINITIONS

As used in this chapter:

(1) "Agricultural open burning" means open burning conducted as a part of any agricultural operation; but not including yard and gardening activities associated with a residence.

(2) "Commercial open burning" means open burning conducted as a part of any commercial or business operation, including land clearing when such land clearing is for the purpose of changing the use of the cleared land, but not including agricultural open burning.

(3) "Department" means department of ecology.

(4) "Director" means director of the department of ecology, or his authorized representative.

(5) "Episode" means a period when a forecast alert, warning or emergency is declared as set forth in RCW 70.94.415.

(6) "Land clearing" means the removal of structures, trees, shrubbery, or other natural vegetation from a plot of land.

(7) "No burn area" means an area designated by the department as an area exceeding or threatening to exceed any state ambient air quality standard.

(8) "Open burning" means the combustion of material in the open or in an outdoor container with no provision for the control of such combustion or the control of the emissions of the combustion products.

(9) Person: An individual, firm, public or private corporation, association, partnership, political subdivision, municipality, government agency.

(10) Small fire: A fire not more than four feet in diameter or more than three feet high.

(11) Silvicultural operation: The growing of trees for commercial or recreational use, including preparing the land, planting, growing, and harvesting of trees.

(12) Wood waste residue: Residue of a natural character such as trees, stumps, shrubbery, or other natural vegetation arising from land clearing projects (RCW 70.94.750(2)).

WAC 173-425-035 EPISODES

(1) No open fire shall be ignited during any stage of an episode.

(2) Any person responsible for an open fire already ignited when any stage of an episode is declared shall extinguish that fire when informed that an episode has been declared. Open fires conducted under the auspices of the department of natural resources for the purpose of burning forest slash pursuant to RCW 70.94.660 through 70.94.700 are to be extinguished by withholding new fuel and allowing the fire to burn down.

173-425-045 [illegible]

WAC 173-425-045 PROHIBITED MATERIALS

Except as provided in WAC 173-425-055, the following material shall not be burned in any open fire:

(1) garbage
(2) dead animals
(3) asphaltic products
(4) waste petroleum products
(5) paints
(6) rubber products
(7) plastics
(8) any substance, other than natural vegetation, which normally emits dense smoke or obnoxious odors.

WAC 173-425-055 EXCEPTIONS

Exceptions to the provisions of this chapter shall be made only as follows:

(1) Upon order of a duly authorized health officer and when authorized by the department, diseased animals and other infested materials may be burned as required to prevent spreading of the infestation.

(2) Upon order of a fire protection agency and when authorized by the department, fires for the disposal of materials presenting a danger to life, property or public welfare may be burned, provided no approved practical alternative method of disposal is available.

(3) Upon approval by the department, fires authorized by a fire protection agency as necessary for training purposes may be burned.

(4) Upon approval of the department, fires set in the course of a defined research project may be burned.

(5) The following types of fires may be burned, provided that they do not contain prohibited materials as set forth in WAC 173-425-045:

  (a) fires set for recreational, religious ceremony, food preparation or social purposes.

  (b) small fires set for hand-warming purposes.

(6) At any solid waste disposal site, compliance with any schedule established in any comprehensive solid waste management plan approved by the department shall be deemed to be in compliance with this chapter. For any solid waste disposal site not subject to such an approved plan, the department may authorize up to six months from the effective date hereof for a corrective program. If further time is needed, and no comprehensive solid waste management plan has been adopted covering a solid waste disposal site, a compliance schedule for meeting the requirements of this chapter will be adopted by the department for such site.

WAC 173-425-065 RESIDENTIAL OPEN BURNING

(1) No open fire shall be conducted on the premises of any residence:

  (a) within a no burn area designated pursuant to WAC 173-425-095;

  (b) during any stage of an episode (see WAC 173-425-035);

  (c) which fire contains prohibited materials, as set forth in WAC 173-425-045;

  (d) which fire contains any material other than wood, paper and natural vegetation; or

(e) which fire is larger than a small fire.

The premises of a residence include the real property immediately adjacent to the residence which is in the same ownership as the residence and which is not devoted to agricultural use other than yard and gardening activities associated with the residence.

(2) Small fires on the premises of a residence may be conducted for the purpose of disposing of wood, paper and natural vegetation, if

(a) none of the provisions of WAC 173-425-065(1) are violated;

(b) such fires do not violate any regulations of a local fire protection agency authorized to issue burning permits in order to prevent or abate nuisances or any local county or city ordinance or resolution pertaining to nuisance; and

(c) reasonable precautions are taken to prevent particulate emissions whenever paper is being burned.

WAC 173-425-075 COMMERCIAL OPEN BURNING

(1) No permit shall be issued for commercial open burning and no commercial open burning shall be conducted:

(a) within a no burn area designated pursuant to WAC 173-425-095;

(b) during any stage of an episode (see WAC 173-425-035);

(c) which burning contains prohibited materials, as set forth in WAC 173-425-045; or

(d) where an approved practical alternate method of disposal certified under WAC 173-425-115(2) is reasonably available.

(2) No commercial open burning shall be conducted without authorization from the department. Open burning shall be authorized only if:

(a) The applicant shows that no approved practical alternate method of disposal is reasonably available; and

(b) The applicant shows that burning, as requested, is reasonably necessary to successfully carry out the enterprise the applicant is engaged in; and

(c) The burning will not violate any regulations of a local fire protection agency authorized to issue burning permits, to prevent or abate nuisances, or any local county or city ordinance or resolution pertaining to a nuisance.

(3) Considering population concentration and local conditions affecting air quality, the department shall condition permits issued hereunder so as to minimize air pollution insofar as practical, including but not limited to restricting the permissible hours of burning, restricting the size of fires, imposing requirements for good combustion practice, restricting burning to specified wind conditions.

WAC 173-425-085 AGRICULTURAL OPEN BURNING

(1) No permit shall be issued for agricultural open burning and no agricultural open burning shall be conducted:

(a) within a no burn area designated pursuant to WAC 173-423-095;

(b) during any stage of an episode (see WAC 173-425-035);

(c) which burning contains prohibited materials, as set forth in WAC 173-425-045; or

(d) which burning contains any material other than natural vegetation and wood wastes generated on the property which is the burning site or transported to the burning site by wind or water.

(2) Except as provided in subsection (3) of this section, no agricultural open burning shall be conducted without a permit from the department. Permits shall be issued only if:

(a) none of the provisions of WAC 173-425-085(1) by the burning, and

(b) the applicant demonstrates that burning as requested is reasonably necessary to successfully carry out the enterprise the applicant is engaged in; and

(c) the burning will not violate any regulations of a local fire protection agency authorized to issue burning permits in order to prevent or abate nuisances or any local county or city ordinance or resolution pertaining to nuisance; and

(d) the burning is necessary to control disease or insect infestation and other measures to this end are not available; or

(e) the burning is necessary to develop physiological conditions conducive to increased crop yield and other measures to this end are not available.

In making a determination under WAC 173-425-085(2)(d) or (e), the department will consult with the county extension agency.

(3) Agricultural open burning may be conducted without a permit if:

(a) none of the provisions of WAC 173-425-085(1) by the burning; and

(b) the burning will not violate any regulations of a local fire protection agency authorized to issue burning permits in order to prevent or abate nuisances or any local or city ordinance or resolution pertaining to nuisance, and

(c) the fire is one acre or less in size and the burning is for the purpose of destroying obnoxious weeds or crop residue along fence rows, ditches, or in cultivated fields.

(4) Taking into consideration population concentration and local condition affecting air quality, the department shall condition permits issued hereunder so as to minimize air pollution insofar as practical, including but not limited to restricting the permissible hours of burning, restricting the size of fires, imposing requirements for good combustion practice, restricting burning to specified wind conditions.

WAC 173-425-095 NO BURN AREA DESIGNATION

(1) The department shall designate as no burn areas those geographical areas where ambient air quality standards for suspended particulates established by WAC 173-425-030 are being exceeded or threaten to be exceeded. Such designations shall be based on monitoring data gathered at primary air mass stations.

(2) The department shall not designate no burn areas within the boundaries of any activated air pollution control authority, unless there is data to support such designation and the authority, upon notification thereof, refuses to make such designation.

(3) The designation of any area as a no burn area by the department shall be made by rule-making procedure and only after public hearing.

(4) No open burning shall be conducted in any designated no burn area.

WAC 173-425-100 DELEGATION OF AGRICULTURAL OPEN BURNING PROGRAM

(1) Whenever the department shall find that any county which is outside the jurisdictional boundaries of an activated air pollution control authority, is capable of administering the permit program of WAC 173-425-085 and desirous of doing so, the department may delegate the administration of such program to the county.

(2) Such delegation may be withdrawn by the department upon a finding that the county is not effectively administering the permit program. Before any such withdrawal of delegation shall be made, the department shall provide the county an opportunity to correct permit program deficiencies.

WAC 173-425-115 LIMITED OUTDOOR BURNING

(1) To further the policies of this chapter and policies expressed in RCW 70.94.745, the department has determined, that alternate technology and methods exist for disposing of wood waste residue resulting from highway right of way land clearing projects or commercial land clearing projects or commercial land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic years). Further, these methods and technology are considered less harmful to the environment than open burning. These alternates are also reasonably economical when the cost of disposal is nine hundred dollars or less per acre.

(2) These alternate methods and technology are:

(a) Chipping, with chips disposed of commercially or by on-site dispersal, haul to landfill, burning in an approved way, or other approved methods, as may be available.

(b) Hauling for disposal elsewhere, such as landfill, commercial use, or other approved methods, as may be available.

(c) On-site disposal in landfill.

(d) On or off-site disposal by a waste combustion method capable of complying with the emission standards set forth in WAC 173-425-115(3).

(3) As a result of the determination made in WAC 173-425-115(1) for disposing of wood waste residue that results from highway right of way land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic yards) or from commercial land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic yards):

(a) No person shall cause or permit the emission, for more than three minutes in any one hour, of an air contaminant from any disposal method covered by WAC 173-425-115 which, at the emission point or within a reasonable distance from the emission point, exceeds twenty percent opacity, except as follows:

(i) The emission may exceed twenty percent opacity for the first fifteen minutes after a startup, for not more than two startups every twenty-four hours.

(ii) When the person responsible for the source can show that the emission over twenty percent opacity will not exceed fifteen minutes in any eight consecutive hours after startup.

(b) No person shall cause or permit the emission of particulate matter from any source, which then becomes deposited beyond the property directly controlled by the owner or operator of the source in sufficient quantity to interfere unreasonably with using and enjoying the property where the material was deposited. (WAC 173-400-040(2)).

(c) No person shall cause or permit the emission of any air contaminant or water vapor from any source, including any air contaminant whose emission is not otherwise prohibited by this regulation, if the air contaminant or water vapor harms the health, safety, or welfare of any person or damages property or business. (WAC 173-400-040(5)).

4. Using alternates listed in WAC 173-425-115(2) is reasonably economical for the projects described in WAC 173-425-115(3) when the alternates can be provided without delay in the project which will create an economic or other hardship, and without costing more than nine hundred dollars per acre.

If the requirement to use an alternate will cause a delay of sixty days or more in completing a project, then the alternate will not be required. Any delay shorter than sixty days will be evaluated on a case-by-case basis.

If the cost of disposing of the wood waste residue is greater than nine hundred dollars per acre, then the alternate will not be required. The cost of clearing and grubbing will not be considered as part of the cost of disposal, unless certain additional costs are required to use the alternate, such as the cost of building a road which would not otherwise be required.

5. Using an alternate must comply with all other applicable statutes, regulations, ordinances, and/or resolutions of state or local government entities. These include noise regulations, solid waste regulations, and those requirements of local air pollution control authorities which are more stringent than those of the department.

6. The requirements for owner or operator of the source to comply with WAC 173-425-115(3)(a) may be waived. Open burning may then be authorized by the department or air pollution control authority, as appropriate, if the owner or operator of the source shows, to the department or air pollution control authority, that:

(a) A delay will result from using the alternates, causing an economic or other hardship;

(b) Other legal requirements may be violated;

(c) A bid cannot be obtained for disposal using an alternate described in WAC 173-425-115, at a cost of nine hundred dollars per acre or less; or

(d) The wood waste residue to be disposed of from the land clearing project is less than five hundred tons (two thousand cubic yards).

7. The department or air pollution control authority may charge a fee to cover administrative costs of processing the waiver request.

8. When an alternate is to be used at any site for six or more months, the requirements of WAC 173-400-110 (notice of construction)' shall be met.

9. In this chapter, land clearing projects located close to one another and burned near the same time, which appear to be a single project, shall be presumed to be one project.

10. In this chapter, normal clearing and grubbing do not include any activity or action related to using alternate methods and technology listed in WAC 173-425-115(2).

11. In this chapter, one cubic yard of wood waste residue equals five hundred pounds.

WAC 173-425-120 DEPARTMENT OF NATURAL RESOURCES--SMOKE MANAGEMENT PLAN

The department of natural resources has the responsibility for issuing and regulating burning permits for any open fire in areas protected by the department of natural resources when such fires are for the following purposes:

(1) Abating a forest fire hazard;

(2) Preventing a fire hazard;

(3) Instruction of public officials in methods of forest fire fighting;

(4) Any silvicultural operation to improve the forest lands of the state.

Fires set for these purposes must be conducted according to the provisions of the smoke management plan administered by the Department of Natural Resources in agreement with the Department of Ecology and other involved agencies.

WAC 173-425-130 NOTICE OF VIOLATION

The department may issue a notice of violation to the person or entity responsible for the fire whenever any of the following occur:

(1) Conditions of a permit issued hereunder are violated;

(2) Any open fire is ignited or, if ignited is not extinguished, when the person or entity responsible for the fire is aware that any air pollution episode stage has been declared;

(3) An open fire is ignited where, under this chapter, such fires are prohibited or where a permit is required and no such permit has been obtained;

(4) Prohibited materials are burned in an open fire.

Procedures with respect to notices of violation shall be in accordance with RCW 70.94.332.

WAC 173-425-140 REMEDIES

Any violation of this chapter may be subject to any penalty or other remedy provided for in chapter 70.94 RCW.

CHAPTER 173-430 WAC

BURNING OF FIELD AND TURF GRASSES
GROWN FOR SEED

WAC 173-430-010 POLICY AND PURPOSE

(1) These rules are enacted under the provisions of the Washington State Clean Air Act, chapter 70.94 RCW, as amended, to assume state jurisdiction over and to control emissions from specific types of agricultural burning.

(2) Authority to enforce all provisions of this regulation, including the establishment of permit conditions and issuance of permits, is delegated to and shall be carried out by all activated air pollution control authorities. In those areas not under the jurisdiction of any activated air pollution control authority, the Department of Ecology shall enforce these regulations, including the establishment of permit conditions and issuance of permits.

(3) It is the policy of the Department of Ecology in carrying out its responsibilities under chapter 70.94 RCW to:

  (a) Reduce and ultimately eliminate unnecessary agricultural burning through the earliest possible application of practical alternate methods.

  (b) Encourage and assist grass seed producers and processors to conduct or participate in a research and technological program designed to progressively reduce adverse effects on the environment through application of best practicable agricultural practices.

  (c) Discourage any increase in the number of acres being burned during the time period alternate methods are being developed to eliminate agricultural burning by the grass seed industry; and to seek an equitable and effective method of preventing an increase in burning.

WAC 173-430-020 DEFINITIONS

As used in this chapter:

(1) "Department" means the Department of Ecology.

(2) "Director" means the director of the Department of Ecology.

(3) "Emissions" means a release into the outdoor atmosphere of air contaminants.

(4) "Field grasses" means canarygrass, bromegrass, oatgrass, timothy, ryegrass, wheatgrass, and orchardgrass planted for seed production.

(5) "Open burning" means the combustion of material in the open or in a container with no provisions for control of the combustion or control over the combustion products.

(6) "Particulate" means a small discrete mass of solid or liquid matter, but not including uncombined water.

(7) "Standard conditions" means 60°F. and 29.92 inches of mercury.

(8) "Straw" means all material, other than seed, removed by swathing, combining or cutting.

(9) "Turf grasses" means all blue grasses, fescues, and bentgrass planted to seed production.

WAC 173-430-030 COMPLIANCE PROGRAM

(1) No open burning of field grasses or turf grasses shall be undertaken unless a permit therefor has been obtained from the department or from an activated air pollution control authority, as appropriate. The issuance of permits hereunder shall be governed by consideration of air quality conditions in the area where proposed burning is to occur, the time of year, the size and duration of the proposed burning activity, and the applicant's need to carry out such burning as weighed against the public interest in clean air. Permits will be conditioned to minimize air pollution insofar as practical. The department may limit the number of acres for which permits to burn will be issued in order to effectively control emissions from this source and to implement the policy expressed in WAC 18-16-010 (3) (c).

(2) Straw shall be removed prior to open burning of turf grasses. This requirement shall be effective immediately following the 1974 harvest.

(3) Open burning of field grasses shall be prohibited after the 1973 harvest.

(4) Open burning of all turf grasses scheduled for tear out shall be prohibited effective in 1975.

(5) A study, approved by the department, shall be conducted, or caused to be conducted, by the grass seed producers and processors in the state, to determine alternative production methods and disease

controls to eliminate burning of turf grasses. The results of this study shall be given to the department not later than December 1976. The study shall include data on total environmental effects of burning and alternate procedures. Open burning of all turf grasses may be prohibited following an evaluation of this study. Failure to conduct the study shall result in a ban on burning of turf grasses beginning in 1977.

(6) Practical alternative production methods and disease controls which would reduce or eliminate open burning shall be utilized as soon as they become available, regardless of specific provisions of the compliance program included within this section.

WAC 173-430-040 MOBILE FIELD BURNERS

Mobile field burners and other methods of incineration, not classified as open burning, shall not be prohibited by the above restrictions, providing emissions do not exceed the following standards:

(1) Visible emissions shall not exceed an opacity of 20% for more than 3 minutes in any one hour;

(2) Particulate emissions shall not exceed 0.1 grains per standard cubic foot of exhaust gas corrected to 7% oxygen at standard conditions, dry.

WAC 173-430-050 OTHER APPROVALS

Nothing herein shall relieve any applicant for a permit hereunder from obtaining permits, licenses or approvals required by any other laws, regulations or ordinances.

CHAPTER 173-435 WAC

EMERGENCY EPISODE PLAN

WAC 173-435-010 PURPOSE

The purpose of these rules is to implement Chapter 70.94 RCW, as amended by Chapter 194, Laws of 1971, extraordinary session.

Air pollution episodes occur under meteorological conditions which reduce the effective volume of air into which air contaminants are introduced. When such conditions occur, there is a possible danger that normal operations at air contaminant sources will be detrimental to public health and safety. The avoidance of high contaminant concentrations during an episode requires a plan which will provide for rapid short-term emission reduction. This chapter shall constitute such an episode avoidance plan.

WAC 173-435-020 DEFINITIONS

As used in this chapter, the following terms have the following meanings:

(1) Air Quality Control Region - An area designated as an air quality control region by the Federal Environmental Protection Agency.

(2) Air Contaminant - Dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combinations thereof.

(3) COH - Coefficient of haze and is a measure of suspended particulates.

(4) Department - Department of Ecology.

(5) Director - Director of the Department of Ecology.

(6) Emission - A release into the outdoor atmosphere of air contaminants.

(7) Episode Stage - A prescribed level of air contaminants or meteorological conditions where certain control actions are required to prevent ambient pollutant concentrations from reaching levels which could cause significant harm to the health of persons.

(8) Emergency Action Center - The headquarters for all Department actions during an episode stage.

(9) Hour - A 60-minute period, beginning and ending on a clock hour.

(10) 8 hours - Any consecutive 8 hours, starting at any clock hour.

(11) Major Source - Any source which is estimated to emit at an annual rate of 25 tons per year or more of SO_2, particulates, or carbon monoxide.

(12) ppm - Parts per million (parts of contaminant per million parts of gas or air by volume).

(13) Particulates - Small discrete masses of solid or liquid matter, but not including uncombined water. (For air pollution usage, sizes generally range from submicron to over 2000 microns).

(14) Source Emission Reduction Plan (SERP) - A plan developed for an individual air pollution source and approved by the Director, which sets forth the actions to be taken at that source upon the declaration of various stages of an episode.

(15) 24 Hours - Any consecutive 24 hours, starting at any clock hour.

WAC 173-435-030 EPISODE STAGE CRITERIA

The declaration of episode stages shall be in accordance with the following criteria:

(1) Stage: "Forecast" - The Forecast stage indicates the presence of meteorological conditions conducive to the accumulation of air contaminants. A Forecast stage will be declared when an Air Stagnation Advisory is issued by the National Weather Service or there is equivalent indication of stagnant atmospheric conditions and conditions are Forecast to persist for 24 hours. Declaration of this stage will activate increased air quality surveillance.

(2) Stage: "Alert" - The Alert stage is that concentration of pollutants at which first stage control actions are to begin. An Alert will be declared when any one of the following levels is reached:

(a) SO_2 - 800 $\mu g/m^3$ (0.3 ppm), 24-hour average.

(b) Particulate - 3.0 COHs or 375 $\mu g/m^3$, 24-hour average.

(c) SO_2 and particulate combined - product of SO_2 ppm, 24-hour average, and COHs equal to 0.2 or product of SO_2 - $\mu g/m^3$, 24-hour average, and particulate $\mu g/m^3$, 24-hour average equal to 65×10^3.

(d) CO - 17 mg/m^3 (15 ppm), 8-hour average.

(e) Oxidant (O_3) - 400 $\mu g/m^3$ (0.2 ppm) - 1-hour average.

(f) NO_2 - 1130 $\mu g/m^3$ (0.6 ppm) 1-hour average, 282 $\mu g/m^3$ (0.15 ppm) 24-hour average;

and meteorological conditions are such that the pollutant concentrations can be expected to remain at the above levels for 12 or more hours or increase unless control actions are taken.

(3) Stage: "Warning" - The Warning stage indicates that air quality is continuing to degrade and that additional control actions are necessary. A Warning will be declared when any one of the following levels is reached:

(a) SO_2 - 1,600 $\mu g/m^3$ (0.6 ppm), 24-hour average.

(b) Particulate - 5.0 COHs or 625 $\mu g/m^3$, 24-hour average.

(c) SO_2 and particulate combined - product of SO_2 ppm, 24-hour average and COHs equal to 0.8 or product of SO_2 $\mu g/m^3$, 24-hour average and particulate $\mu g/m^3$, 24-hour average equal to 261×10^3.

(d) CO - 34 mg/m^3 (30 ppm), 8-hour average.

(e) Oxidant (O_3) - 800 $\mu g/m^3$ (0.4 ppm), 1-hour average.

(f) NO_2 - 2,260 $\mu g/m^3$ (1.2 ppm), 1-hour average; 565 $\mu g/m^3$ (0.3) ppm), 24-hour average;

and meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for 12 or more hours or increase unless control actions are taken.

(4) Stage: "Emergency" - The Emergency stage indicates that air quality is continuing to degrade toward a level of significant harm to the health of persons and that the most stringent control actions are necessary. An Emergency will be declared when any one of the following levels is reached at any monitoring site:

(a) SO_2 - 2,100 $\mu g/m^3$ (0.8 ppm), 24-hour average.

(b) Particulate - 7.0 COHs or 875 $\mu g/m^3$, 24-hour average.

(c) SO_2 and particulate combined - product of SO_2 ppm, 24-hour average and COHs equal to 1.2 or product of SO_2 $\mu g/m^3$, 24-hour average and particulate $\mu g/m^3$, 24-hour average equal to 393×10^3.

(d) CO - 46 mg/m^3 (40 ppm), 8-hour average.

(e) Oxidant (O_3) - 1,200 $\mu g/m^3$, (0.6 ppm), 1-hour average.

(f) NO_2 - 3,000 $\mu g/m^3$ (1.6 ppm), 1-hour average; 750 $\mu g/m^3$ (0.4 ppm), 24-hour average;

and meteorological conditions are such that this condition can be expected to remain at the above levels for 12 or more hours.

(5) Stage: "Termination" - Once declared, any stage reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At such time, the next lower stage will be assumed. When conditions improve to where the criteria are no longer met for any episode stage, the episode will be terminated.

WAC 173-435-040 SOURCE EMISSION REDUCTION PLANS

(1) Any person responsible for the operation of a major source, when requested in writing by the Director or his authorized representative, shall prepare in consultation with the Department, a Source Emission Reduction Plan (SERP) consistent with good industrial practice and safe operating procedures for reducing the emissions of air contaminants into the outdoor atmosphere during periods of air pollution Alert, Warning, and Emergency.

(2) SERPs shall be in writing and show the source of air contamination, describe the manner in which the reduction of air contaminant emissions will be achieved during periods of air pollution Alert, Warning, and Emergency, and give the amount of reduction for each such stage.

(3) During periods of air pollution Alert, Warning, or Emergency, SERPs shall be made available, on the premises of sources required under this section to have them, to any person authorized to enforce the provisions of this episode avoidance plan.

(4) SERPs shall be submitted to the Director within 30 days after receipt of a request thereof.

(5) SERPs shall be subject to review and approval by the Director. If in the opinion of the Director, any SERP does not, in whole or in part, provide for satisfactory emission reduction during an episode, the Director may disapprove such SERP, give the reason for disapproval and require the resubmittal of same with a specified time period.

If within the time period specified, the person responsible fails to submit a SERP satisfactory to the Director, the Director may revise the SERP to cause it to meet episode avoidance objectives. Such revised plan will, thereafter, be the SERP for the source to which it applies.

(6) SERPs may be amended after submission to the Director of a revised SERP. Such revised SERP will be processed in the same manner as the originally submitted SERP.

(7) An emission reduction plan for the purpose of reducing motor vehicle emissions during episode stages, will be developed by the Department.

WAC 173-435-050 ACTION PROCEDURES

(1) Whenever applicable criteria are met, the Director, or his duly authorized representative, may declare and terminate the Forecast, Alert, and Warning stages of an episode. Such declaration shall constitute an order for action in accordance with applicable SERPs.

(2) Whenever applicable criteria are met, the Governor may declare and terminate the Emergency stage of an episode. Such declaration shall constitute an order for action in accordance with applicable SERPs.

(3) Adverse air quality need not be region-wide for any episode stage to be declared and action procedures may be taken for any area affected or likely to be affected by episode conditions. The declaration of any episode stage shall specify the area to which it applies.

(4) The broadest publicity practicable shall be given to the declaration of any episode stage and such declaration shall, as soon as possible, be directly communicated to all persons responsible for the carrying out of SERPs within the affected area.

(5) Regardless of whether any episode stages have previously been declared, whenever the Governor finds that emissions are causing imminent danger to public health or safety, he may declare an air pollution emergency and order the persons responsible for the operation of sources causing the danger, safe operating procedures, and SERPs, if any.

(6) Whenever an episode stage is declared on the basis of contaminant levels of carbon monoxide, oxidant, or nitrogen dioxide, the Director or his duly authorized representative shall take such action as may be required to reduce emissions from motor vehicles. These actions may include, but are not limited to, the rerouting or detouring of traffic.

WAC 173-435-060 ENFORCEMENT

(1) Whenever any episode stage has been declared, the Department shall establish an Emergency Action Center, which shall be the headquarters for all Department actions during the episode.

(2) The Department shall develop an operations manual, which shall set forth a plan for the receipt, processing, and dissemination

of information and data during an episode.

(3) Enforcement with respect to any episode shall be directed from the Emergency Action Center by the Director and/or his authorized representatives in consultation with the Governor's office.

(4) Authorized personnel of the Department of Ecology, the Department of Social and Health Services, and the State Police shall have the authority to enforce orders of the Director or the Governor, issued under this chapter, as directed from the Emergency Action Center. In addition, authorized personnel of any local air pollution control agency or local police force shall have the authority to enforce such orders against sources within the area of which such agency or police force has jurisdiction, as directed from the Emergency Action Center.

(5) For the purpose of determining compliance with any SERP, those persons authorized to enforce orders, hereunder, shall have the authority to enter upon any private or public property, excepting nonmultiple unit private dwellings, housing two families or less. No person shall refuse entry or access to enforcement personnel who request entry and present appropriate credentials.

(6) Whenever it appears that action being taken in compliance with SERPs will not avert imminent danger to public health and safety, the Governor may order the following additional measures:

   (a) Stopping and prohibiting motor vehicle travel and traffic.

   (b) Closing down or restricting the use of any business, commercial, industrial or other establishment or activity which contributes to the emission of contaminants to the air.

(7) Any declaration or order issued in accordance with WAC 18-08-050 shall be effective immediately and shall not be stayed, pending completion of review.

(8) Whenever any order has been issued hereunder, the Attorney General, upon the request of the Governor or the Director, or the authorized representative of either, shall petition the superior court of the county in which a source is located for a temporary restraining order for the immediate reduction or discontinuance of emissions from such source.

CHAPTER 173-490 WAC

EMISSION STANDARDS AND CONTROLS FOR SOURCES EMITTING VOLATILE ORGANIC COMPOUNDS (VOC)

WAC 173-490-010 PURPOSE.

The purpose of this regulation is to establish control requirements for sources emitting volatile organic compounds.

WAC 173-490-020 DEFINITIONS.

Unless a different meaning is indicated by context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

(1) "Bottom loading" means the filling of a tank through a submerged fill line.

(2) "Bulk gasoline plant" means a gasoline storage and transfer facility that receives more than ninety percent of its annual gasoline throughput by transport tank, and reloads gasoline into transport tanks.

(3) "Closed refinery system" means a system that will process or dispose of those VOC collected from another system. The mass quantity of collected VOC emitted to the ambient air from the closed refinery system shall by comparison not exceed that required for a disposal system.

(4) "Cutback asphalt" means an asphalt that has been blended with petroleum distillates to reduce the viscosity for ease of handling and lower application temperature. An inverted emulsified asphalt shall be considered a cutback asphalt when the continuous phase of the emulsion is a cutback asphalt.

(5) "Demonstrate" means a presentation of the necessary data and calculations to support the required conclusion. The material is recorded for each event and made a part of air quality records or reports required by the state.

(6) "Disposal system" means a process or device that reduces the mass quantity of the VOC that would have been emitted to the ambient air by at least ninety percent prior to their actual emission.

(7) "Gasoline" means a petroleum distillate having a true vapor pressure greater than 200 mm of Hg (4 psia) at 20 degrees C, that is a liquid at standard conditions of 760 mm of Hg and 20 degrees C, and is used as a fuel for internal combustion engines.

(8) "Gasoline dispensing facility" means any site dispensing gasoline into motor vehicle fuel tanks from stationary storage tanks.

(9) "Gasoline loading terminal" means a gasoline transfer facility that receives more than ten percent of its annual gasoline throughput solely or in combination by pipeline, ship or barge, and loads gasoline into transport tanks.

(10) "Petroleum refinery" means a facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products by distilling crude oils or redistilling, cracking, extracting or reforming unfinished petroleum derivatives.

(11) "Proper attachment points and fittings" means connecting hardware for the purpose and of a design, equal or better in function and quality, as that readily available from manufacturers specializing in such equipment and meeting the user-industry's practices, standards or specifications and the standards of other agencies or institutions responsible for safety.

(12) "Submerged fill line" means a pipe, tube, fitting or other hardware for loading liquids into a tank with either a discharge opening flush with the tank bottom; or with a discharge opening entirely below the lowest normal operating drawoff level or that level determined by a liquid depth two and one half times the fill line diameter when measured in the main portion of the tank, but not in sumps or similar protrusions.

(13) "Submerged loading" means the filling of a tank with a submerged fill line.

(14) "Suitable closure" or "suitable cover" means a door, hatch, cover, lid, pipe cap, pipe blind, valve or similar device that prevents the accidental spilling or emitting of VOC. Pressure relief valves, aspirator vents or other devices specifically required for safety and fire protection are not included.

(15) "Transport tank" means a container with a capacity greater than one thousand liters (260 gallons) used for shipping gasoline, including but not limited to, tank truck, tank trailer, railroad tank car, and metallic or nonmetallic tank or cell conveyed on a flatbed truck, trailer or railroad car.

(16) "True vapor pressure" means the equilibrium partial pressure of a petroleum liquid as determined with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," 1962.

(17) "Volatile organic compound" means a hydrocarbon or derivative of hydrocarbon that has a vapor pressure greater than 0.1 mm of Hg (millimeters of mercury) at a temperature of 20 degrees C and pressure of 760 mm of Hg. Excluded compounds are methane, ethane trichlorotrifluoroethane, methylene chloride and 1, 1, 1-trichloroethane (methyl chloroform).

WAC 173-490-025 APPLICABILITY.

This regulation shall apply to the qualifying emission sources of volatile organic compounds in the source categories listed below and located in or operating within designated ozone nonattainment areas of the state of Washington. Sources of volatile organic compound emissions may be exempted, by the department, from any requirements to control or reduce the emission of volatile organic compounds if the source will be permanently shutdown by January 1, 1983 and the owner or operator of the facility complies with a phase-out schedule approved by the department. The phase-out schedule approved by the department. The phase-out schedule shall contain specific actions and dates necessary to the orderly termination of the source's functioning. The operation of the emission source after January 1, 1983 shall be permitted only when done in full compliance with all other applicable requirements of this chapter.

(1) Petroleum refineries.
(2) Petroleum liquid storage tanks.
(3) Gasoline loading terminals.
(4) Bulk gasoline plants.
(5) Gasoline dispensing facilities.
(6) Surface coaters.
(7) Open top vapor degreasers.
(8) Conveyorized degreasers.
(9) Cutback asphalt paving.

This chapter does not apply to those sources under the jurisdiction of the energy facility site evaluation council (EFSEC).

WAC 173-490-030 REGISTRATION AND REPORTING.

(1) The owner or operator of a stationary emission source of volatile organic compounds that must comply with any requirements in section 040, except those exemptions given in subsection (4) of this section, shall register the source by October 1, 1979 with the department. Registration shall be in accordance with instructions received from the department or authority. If such registration is required by an air pollution control authority with jurisdiction over the source or the source is under the jurisdiction of the energy facility site evaluation council (EFSEC) registration with the department will not be required. Sources not required to comply with the control regulations, because of their size, may be required to register at a later date.

(2) The owner or operator of a registered stationary emission source of volatile organic compounds shall furnish, upon request of the department, such data as the department may require to calculate the emissions of the source and evaluate

the emission control program. The data shall be supplied in a form and according to instructions received from the department or local air pollution control authority. When required, the data shall be submitted not later than sixty days following the request.

(3) A new emission source of volatile organic compounds that must comply with any requirements in section 040, except those exemptions given in subsection (4) of this section, shall register with the department or authority prior to operation of the new source, and shall submit sufficient information to demonstrate that the new source is capable of complying with the requirements in this chapter. An opportunity shall be provided for an inspection of the new source prior to its operation.

(4) The emission sources of volatile organic compounds associated with paving applications of cutback asphalt are exempt from the registration and reporting requirements of this section. Reporting requirements on the paving uses and applications of cutback asphalt are covered in subparagraph 040(9).

WAC 173-490-040 REQUIREMENTS.

Sources shall demonstrate compliance with these regulations using the sampling procedures on file with and approved by the department.

(1) Petroleum refineries.

(a) These regulations shall apply to all petroleum refineries with a crude oil or feed stock capacity greater than one million five hundred thousand liters (9,000 bbl) per day.

(b) A petroleum refinery with a crude oil or feed stock capacity of eight million three hundred twenty eight thousand liters (50,000 bbl) per day or less and which is owned or controlled by a refiner with a total combined crude oil or feed stock capacity of twenty-three million liters (137,500 bbl) per day or less shall be classified as a small refinery.

(c) Vacuum producing system.

(i) Noncondensable VOC from vacuum producing systems shall be piped to an appropriate firebox, incinerator or to a closed refinery system.

(ii) Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.

(d) Wastewater separator.

(i) Wastewater separators with demonstrated VOC emissions less than twenty-five tons annually shall be exempt from the requirements of (ii) and (iii).

(ii) Wastewater separator forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or a double deck-type cover equipped with closure seals between the cover edge and compartment wall.

(iii) Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.

(e) Process unit turnaround.

(i) The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery system, combusted by a flare, or vented to a disposal system.

(ii) The pressure in a process unit following depressurization for turnaround shall be less than five psig before venting to the ambient air.

(iii) Venting or depressurization to the ambient air of a process unit for turnaround at a pressure greater than five psig shall be allowed if the owner demonstrates the actual emission of VOC to the ambient air is less than permitted by subparagraph (e)(ii) of this subsection.

(f) Maintenance and operation of emission control equipment.

Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a manner commensurate with the level of maintenance and housekeeping of the overall plant.

(2) Petroleum liquid storage tanks.

(a) All tanks except as noted in subparagraph (d) of this subsection storing volatile organic petroleum liquids with a true vapor pressure as stored greater than 78 mm of Hg (1.5 psi), but less than 570 mm of Hg (11.1 psi) at actual monthly average storage temperatures and having a capacity greater than one hundred fifty thousand liters (40,000 gallons) shall comply with one of the following:

(i) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources - Storage Vessels for Petroleum Liquids (40 CFR 60, subpart K).

(ii) Be retrofitted with a floating roof or internal floating cover using a metallic seal or a nonmetallic resilient seal at least meeting the equipment specifications of the federal standards referred to in subparagraph (a)(i) of this subsection, or its equivalent.

(b) All seals used in subparagraphs (a)(ii) and (iii) are to be maintained in good operating conditions and the seal fabric shall contain no visible holes, tears or other openings.

(c) All openings not related to safety are to be sealed with suitable closures.

(d) Tanks used for the storage of gasoline in bulk gasoline plants and equipped with vapor balance systems as required in subparagraph (4)(b) of this section shall be exempt from the requirements of this subsection.

(3) Gasoline loading terminals.

(a) These regulations shall apply to all gasoline loading terminals with an average annual daily gasoline throughput greater than seventy-five thousand liters (20,000 gallons).

(b) Loading facilities. Facilities for the purpose of loading gasoline into any transport tank shall be equipped with a vapor recovery system (VRS) as described in subparagraph (c) of this subsection, and comply with the following conditions:

(i) The loading facility shall employ a sumberged loading or bottom loading for all transport tanks.

(ii) The VRS shall be connected to the transport tank being loaded and operating during the entire loading of every transport tank loaded at the facility.

(iii) The loading of all transport tanks shall be performed such that ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released to the ambient air. Emissions from pressure relief valves shall not be included in the controlled emissions when the back pressure in the VRS collection lines is lower than the relief pressure setting of the transport tank's relief valves.

(iv) All loading lines and vapor lines shall be equipped to close automatically upon disconnect. The point of closure shall be on the tank side of any hose or intermediate connecting line.

(c) Vapor recovery system (VRS). The VRS shall be designed and built according to accepted industrial practices and meet the following conditions.

(i) The VRS shall prevent at least ninety percent by weight of the gasoline vapors displaced during loading of each transport tank from entering the ambient air and in no case shall the gasoline vapors emitted to the ambient air exceed eighty milligrams per liter of gasoline loaded.

(ii) The VRS shall be equipped with a signal device to alert personnel when the system is not operating or unintentionally shuts down.

(iii) The back pressure in the VRS collection lines shall not exceed the transport tank's pressure relief settings.

(d) Alternative loading facility. The loading of transport tanks by other means and using other vapor control systems shall require the facility owner to demonstrate that the emission of gasoline vapors to the ambient air is less than eighty milligrams per liter of gasoline loaded.

(4) Bulk gasoline plants.

(a) Those regulations shall apply to all bulk gasoline plants with an annual average daily gasoline throughput greater than fifteen thousand liters (4,000 gallons)

(b) Storage tanks. All storage tanks with a capacity greater than two thousand one hundred liters (550 gallons) and used for the storage of gasoline shall comply with the following conditions:

(i) Each storage tank shall be equipped with a submerged fill line.

(ii) Each storage tank shall be equipped for vapor balancing of gasoline vapors with transport tanks during gasoline transfer operations.

(iii) The vapor line fittings on the storage tank side of break points with the transport tank vapor connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect.

(iv) The pressure relief valves on storage tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

(c) Transport tanks. All transport tanks, except those meeting the conditions in subparagraph (4)(d) of this subsection, and transfering gasoline with storage tanks in a bulk gasoline plant shall comply with the following conditions:

(ii) The vapor line fittings on the transport tank side of break points with the storage tank connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect.

(iii) The pressure relief valves on transport tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

(d) Transport tanks used for gasoline and meeting all of the following conditions shall be exempt from the requirement to be equipped with any attachment fitting for vapor balance lines.

(i) The transport tank is used exclusively for the delivery of gasoline into storage tanks of a facility exempt from the vapor balance requirements of subparagraph (5) of this subsection.

(ii) The transport tank has a total capacity less than fifteen thousand liters (4,000 gallons) and is of a compartmented design and construction requiring the installation of four or more separate vapor balance fittings.

(e) Gasoline transfer operations. No owner or operator of a bulk gasoline plant or transport tanks shall allow the transfer of gasoline between a transport tank and a storage tank except under the following conditions:

(i) All transport tanks shall be submerged filled or bottom loaded.

(ii) The loading of all transport tanks, except those exempted under subparagraph (d) of this subsection, shall be performed such that ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released into the ambient air. Emissions from pressure relief valves shall not be included in the controlled emissions.

(f) Equipment or system failures. Failures or leaks in the vapor balance system shall be limited by the following conditions:

(i) During the months of June, July, August and September, failures of the vapor balance system to comply with these regulations shall require the discontinuation of gasoline transfer operations for the failed part of the system. Other transfer points that can continue to operate in compliance may be used.

(ii) The loading or unloading of the transfer tank connected to the failed part of the vapor balance system may be completed.

(iii) Breakdowns and upset conditions during all months of the year shall comply with the additional provisions of WAC 173-400-120(4).

(g) The owner or operator of a bulk gasoline plant or transport tank shall take all reasonable necessary measures to prevent the spilling, discarding in sewers, storing in open containers or handling of gasoline in a manner on the plant site that will result in evaporation to the ambient air.

(5) Gasoline dispensing facilities (Stage I).

(a) These regulations shall apply to all gasoline dispensing facilities with a total annual gasoline output greater than seven hundred fifty-seven thousand liters (200,000 gallons) and total gasoline storage capacity greater than thirty-eight thousand liters (10,000 gallons).

(b) Storage tanks. All gasoline storage tanks of the facilities defined in subparagraph (a) of this subsection shall be equipped with submerged fill lines and fittings for vapor balancing gasoline vapors with the delivery transport tank. Storage tanks required to comply are:

(i) All tanks with a capacity greater than seven thousand five hundred liters (2,000 gallons) installed before January 1, 1979, except as provided for in subparagraph (c) of this subsection.

(ii) All tanks with a capacity greater than one thousand liters (260 gallons) installed on or after January 1, 1979.

(c) Gasoline storage tanks with offset fill lines shall be exempt from the requirement of paragraph (b) of this subsection if installed prior to January 1, 1979.

(d) Vapor balance system. The vapor balance system (for the purpose of measuring compliance with the emission control efficiency) shall consist of the transport tank, gasoline vapor transfer lines, storage tank and all tank vents. The vapor balance system shall prevent at least ninety percent of the displaced gasoline vapors from entering the ambient air.

(6) Surface coaters. The operation of a coater and dryer, that may

serve one or more process lines, shall comply with the following emission limits if the uncontrolled emissions of VOC from the coater and dryer would be greater than 270 kg (600 pounds) in any given twenty-four hour period. The emission limits and uncontrolled emission quantity shall include the additional quantity of essions from the dryer during the twelve hour period after application of the coating.

Process	Limitation Grams/Liter of Coating Excluding Water)	lb/Gal. of Coating (Excluding water)
Can Coating		
Sheet basecoat and overvarnish; two-piece can exterior	340	2.8
Two and three piece can interior body spray, two piece can exterior end	510	4.2
Side-seam spray	660	5.5
End sealing compound	440	3.7
Coil coating	310	2.6
Fabric coating	350	2.9
Vinyl coating	450	3.8
Paper coating	350	2.9
Auto and light duty truck coating		
Prime	230	1.9
Topcoat	340	2.8
Repair	580	4.8
Metal furniture coating	360	3.0
Magnet wire coating	200	1.7
Large appliance coating	340	2.8

(7) Open top vapor degreasers.

(a) All open top vapor degreasers with a vapor-air interface greater than one square meter (ten square feet) shall comply with the following equipment specifications:

(i) Be equipped with a cover that may be readily opened and closed. When a degreaser is equipped with a lip exhaust, the cover shall be located below the lip exhaust.

(ii) Have one of the following:

  (A) A freeboard ratio equal to or greater than 0.75.

  (B) A freeboard chiller.

  (C) A closed design such that the cover opens only when the part enters or exits the degreaser.

(iii) Post a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

  (A) Do not degrease porous or absorbent materials such as cloth, leather, wood or rope.

  (B) The cover of the degreaser should be closed at all times except when processing workloads.

  (C) When the cover is open the lip of the degreaser should not be exposed to steady drafts greater than 15.3 meters per minute (50 feet per minute).

  (D) Rack parts so as to facilitate solvent drainage from the parts.

  (E) Workloads should not occupy more than one-half of interface area.

  (F) When using a powered hoist, the vertical speed of parts in and out of the vapor zone should be less than 3.35 meters per minute (11 feet per minute).

  (G) The vapor level should not drop more than ten centimeters (4 inches) when the workload enters the vapor zone.

  (H) Degrease the workload in the vapor zone until condensation ceases.

  (I) Spraying operations should be done within the vapor layer.

  (J) Hold parts in the degreaser until visually dry.

  (K) When equipped with a lip exhaust, the fan should be turned off when the cover is closed.

(L) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.

(M) Water shall not be visible in the solvent stream from the water separator.

(b) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.

(c) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leakproof couplings.

(d) Still and sump bottoms shall be kept in closed containers.

(8) Conveyorized degreasers.

(a) All conveyorized cold cleaners and conveyorized vapor degreasers shall comply with the following operating requirements:

(i) Exhaust ventilation should not exceed twenty cubic meters per minute of square meter (65 cfm per square foot) of degreaser opening, unless necessary to meet OSHA requirements. Work place fans should not be used near the degreaser opening.

(ii) Post in the immediate work area a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

(A) Rack parts for best drainage.

(B) Maintain vertical speed of conveyored parts to less than 3.35 meters per minute (11 feet per minute).

(C) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.

(D) Water shall not be visible in the solvent stream from the water separator.

(b) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.

(c) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leakproof couplings.

(d) Still and sump bottoms shall be kept in closed containers.

(9) Cutback asphalt paving.

(a) After June 1, 1981 all paving applications of cutback asphalts are prohibited during the months of June, July, August and September, except as provided for in subparagraph (b) of this subsection.

(b) The following paving uses and applications of cutback asphalts are permitted during all months of the year.

(i) As a penetrating prime coat on aggregate bases prior to paving.

(ii) The manufacture of patching mixes used exclusively for pavement maintenance and needed to be stockpiled for times longer than one month.

(iii) All paving uses when the temperature during application is below 10 degrees C (50 degrees F).

(c) The official responsible for the paving use or application of any cutback asphalt shall submit an annual report on the uses of cutback asphalt during the months of June, July, August and September. The report shall be on a form and according to instructions received from the department or local air pollution control authority. The report shall be submitted by November 15 of the year for which it applies.

WAC 173-490-070 SCHEDULE OF CONTROL DATES.

Emission sources required to meet any conditions in section 040 in this chapter shall comply in a reasonable time, but not later than the following schedule where the numbers are the time in months following acceptance of this regulation, WAC 173-490, by the U.S. Environmental Protection Agency.

	Small Refineries	Large Refineries
(1) Petroleum refineries.		
Notice of Construction	6	2
Contract Let	35	32

Commence Construction	38	35
Complete Construction	60	38
Final Compliance	65	42

(2) Petroleum liquid storage tanks.

Notice of Construction	2
Contract Let	20
Commence Construction	26
Complete Construction	29
Final Compliance	30

(3) Gasoline loading terminals.

Notice of Construction	2
Contract Let	6
Commence Construction	8
Complete Construction	11
Final Compliance	12

(4) Bulk gasoline plants.

Notice of Construction	2
Contract Let	12
Commence Construction	14
Complete Construction	17
Final Compliance	18

(5) Gasoline dispensing facilities.

	Facilities Serviced Primarily By:	
	Terminals	Plants
Notice of Construction	2	2
Contract Let	6	12
Commence Construction	8	14
Complete Construction	11	17
Final Compliance	12	18

(6) Surface coaters.

	Solventless	Other
Plans Submitted	2	2
Contract Let	6	6
Commence Construction	8	8
Complete Construction	23	11
Final Compliance	24	12

(7) Open top vapor degreasers and conveyorized degreasers.

Notice of Construction	2

Contract Let	4
Commence Construction	5
Complete Construction	7
Final Compliance	8

WAC 173-490-080 EXCEPTIONS.

Exceptions to volatile organic compound emission standards and requirements.

(1) Other emission reduction methods may be employed if the source operator demonstrates to the department that they are at least as effective as the required methods.

(2) The operation of a natural gas-fired incinerator and associated capture system installed for the purpose of complying with this regulation will be required only during the months of June, July, August and September, unless the operation of such devices is required for purposes of occupational health or safety or for the control of toxic substances, malodors, or other regulated pollutants.

WAC 173-490-090 NEW SOURCE REVIEW.

Any new source of VOC emissions with a potential emission rate of one hundred tons per year is required to meet the new source review provisions of WAC 173-400-110.

WAC 173-490-120 COMPLIANCE SCHEDULES.

(1) Whenever a source is found to be in violation of the provisions of this chapter, the department may issue a regulatory order which will include a schedule of compliance to bring the source into compliance with this chapter. Opportunity for a public hearing on each proposed compliance schedule shall be provided by prominent advertisement of a notice identifying the proposal and announcing its availability for public inspection in at least one location in the county in which the source is located. No public hearing on a proposed compliance schedule shall be held before thirty days after the publication of the above notice.

(2) A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included within a regulatory order issued hereunder are being met.

WAC 173-490-130 REGULATORY ACTIONS.

The department or authority may use the regulatory provisions of

RCW 70.94 to enforce the provision of this chapter.

WAC 173-490-135 CRIMINAL PENALTIES.

Persons in violation of this chapter may be subject to the provisions of RCW 70.94.430.

WAC 173-490-140 APPEALS.

Decisions and orders of the department may be appealed to the pollution control hearings board pursuant to chapter 43.21B RCW and chapter 371-08 WAC.

WAC 173-490-150 VARIANCE.

Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to the department for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provision of RCW 70.94.181.

(1) Source in any area over which a local air pollution control agency has jurisdiction shall make application to the board of that agency rather than the department. The department or board may grant such variance, but only after public hearing or due notice.

(2) Variances granted by a local agency board for sources under their jurisdiction will be accepted as variances to this regulation.

(3) No variance or renewal shall be construed to set aside or delay any requirements of the federal clean air act except with the approval and written concurrence of the federal environmental protection agency.

CHAPTER 18-24

STATE JURISDICTION OVER MOTOR VEHICLES

WAC 18-24-010 STATEMENT OF PURPOSE AND APPLICABILITY

These regulations are enacted under the provisions of the Washington Clean Air Act to provide for the assumption of jurisdiction by the department of ecology over motor vehicles as defined herein, for the purpose of preventing and controlling air contaminant emissions resulting from the operation of motor vehicles.

WAC 18-24-020 DEFINITIONS AS USED IN THIS CHAPTER

(1) "Commence construction or modification" means to begin a continuous program to complete construction or modification of a complex source through initiation of physical changes at the site, including site clearing, grading, dredging, or landfilling. For the purposes of this definition, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner or operator, shall be disregarded in determining whether a construction or modification program is continuous.

(2) "Complex source" means any building, structure, facility, or installation the operation or use of which at the location proposed, may indirectly result in an increase in the ambient air in the concentration of air contaminants emitted by motor vehicles. Such sources shall include but not be limited to:

(a) Highways and roads;
(b) Parking lots and garages;
(c) Shopping centers;
(d) Recreational centers and amusement parks;
(e) Sports stadiums;
(f) Airports; and
(g) Commercial or industrial developments.

(3) "Construction" means fabrication,erection, or installation of a complex source.

(4) "Department" means the department of ecology.

(5) "Director" means the director of the department of ecology or his authorized delegate.

(6) "Local air pollution control agency" means any activated air pollution control authority established and existing pursuant to the provisions of the Washington Clean Air Act, Chapter 70.94 RCW.

(7) "Local government" means any county, city, town or political subdivision (other than a state or federal agency or a local air pollution control agency).

(8) "Modification" means alteration, expansion, or change of use of a complex source.

(9) "Motor vehicle" means any operating vehicle or one capable of being operated which has its own self-contained sources of motive power, is designed for the transportation of people or property, and is of the type for which a license is required for operation on a highway.

(10) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a complex source.

(11) "Residential parking facility" means a parking facility, the use of which is limited exclusively to residents (and guests) of a residential building or group of buildings, and in which no commercial parking is permitted.

(12) "Person" means any individual, municipal, public or private corporation, association, partnership, firm, political subdivision, or agency of state or federal government.

(13) "Stationary source" means any building, structure, facilities, or installation which emits or may emit an air contaminant.

(14) "Vehicle trip" means a trip by a single vehicle which begins or ends as a result of the operation or maintenance of a complex source.

WAC 18-24-030 ASSUMPTION OF JURISDICTION

The department, finding that the prevention and control of air pollution from motor vehicles should be regulated on a state-wide basis, hereby assumes jurisdiction over motor vehicles for the purpose of controlling air contaminant emissions from the operation of such motor vehicles. This assumption of jurisdiction includes the state-wide regulation of the construction and modification of complex sources in order to control the concentrations of air contaminant emissions from motor vehicles which may indirectly result from the operation or use of such complex sources.

CHAPTER 18-52 WAC

PRIMARY ALUMINUM PLANTS

WAC 18-52-010 STATEMENT OF PURPOSE

These rules are enacted under the provisions of the 1969 amendments to the Washington Clean Air Act (RCW 70.94.395) to:

(1) Assume state jurisdiction over emissions from primary aluminum reduction plants in order to provide for the systematic reduction and control of air pollution in the primary aluminum reduction industry; and

(2) Establish standards deemed to be technically feasible and reasonably attainable, and revise such standards as new information and better technology are developed and become available.

WAC 18-52-016 OBJECTIVES

In furtherance of the public policy of the state as set forth in chapter 70-94 RCW, it is hereby declared to be the policy and objective of the Department in adopting the following regulations to:

(1) Require, in accordance with a specific program and timetable for each operating plant, the highest and best practicable collection, treatment, and control of emissions from cells and other sources in primary aluminum reduction plants through the utilization of technically feasible equipment, devices and procedures.

(2) Require the efficient maintenance and operation of emission control, capture and treatment equipment.

(3) Require effective monitoring and reporting of emissions, ambient air levels of fluorides, fluoride content of forage and other pertinent data. The Department will use these data, in conjunction with observation of conditions in the surrounding areas, to develop and revise emission and ambient air standards and to determine compliance or noncompliance therewith.

(4) Encourage and assist the primary aluminum reduction industry to conduct a research and technological development program designed to progressively reduce primary aluminum reduction plant emissions, in accordance with a definite program, including specified objectives and time schedules.

WAC 18-52-021 DEFINITIONS

(1) "Abnormal operation" means a process operation other than normal operation which may result in emissions that exceed emission standards. An abnormal operation can be anticipated and planned.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(3) "Air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(4) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is suject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(i) Applicable standards as set forth in 40 C.F.R. parts 60 and 61.
(ii) The applicable state implementation plan emission limitation.
(iii) The emission rate specified as a permit condition.

(5) "All sources" means sources including, but not limited to, the reduction process, alumina plant, anode plant, anode baking plant, cast house and collection, treatment and recovery systems.

(6) "Ambient air" means the surrounding outside air.

(7) "Anode baking plant" means the heating and sintering of pressed anode blocks in oven-like devices, including the loading and unloading of the oven-like devices.

(8) "Anode plant" means all operations directly associated with the preparation of anode carbon except the anode baking operation.

(9) "Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this chapter which would be emitted from any proposed primary aluminum plant or modification which the department of ecology, on a case-by-case basis, taking into account energy, environmental, and economic impact and other costs, determines is achievable for such plant or modification through application of production processes or available methods, systems, and techniques. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed

by any applicable standard under 40 C.F.R.part 60 and 61. For the purposes of this chapter, the requirement of RCW 70.94.152 that a new source should provide "all known available and reasonable methods of emission control" means the same as best available control technology.

(10) "Commenced construction" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(11) "Cured forage" means hay, straw, ensilage that is consumed or is intended to be consumed by livestock.

(12) "Department" means state of Washington department of ecology.

(13) "Emission" means a release into the outdoor atmosphere of air contaminants.

(14) "Emission standard" means the limitation on the release of a contaminant or multiple contaminants into the ambient air.

(15) "Flourides" means matter containing flouride ion.

(16) "Forage" means grasses, pasture and other vegetation that is consumed or is intended to be consumed by livestock.

(17) "Fugitive particulate" means particulate material which is generated incidental to an operation, process or procedure, and is emitted into the open air from points other than an opening designed for emissions such as a stack or vent.

(18) "Fugitive emissions" means contaminants which are generated by industrial or other activities which are released to the atmosphere through openings such as windows, vents, or doors, ill-fitting oven closures, rather than through primary exhaust systems or are reentrained from unenclosed material handling operations. Aggregate storage operations and active tailing piles are included in this category of sources.

(19) "Lowest achievable emission rate" means for any source, that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(20) "Major source" means any source which has potential emissions exceeding one hundred tons per year or more of particulates, sulfur dioxide, nitrogen oxide, carbon monoxide or hydrocarbons.

(21) "Major modification" means an addition, alteration or other change in a source which will increase potential emissions of particulates, sulfur dioxide, nitrogen oxide, carbon monoxide, or hydrocarbons by one hundred tons per year or more.

(22) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant alteration of the chemical or physical properties of the material.

(23) "New source" means a source which commences construction after June 17, 1970. Addition to, enlargement, modification, replacement, or any alteration of any process or source which will increase potential emissions or ambient air concentrations of any contaminant for which federal or state ambient air emissions standards have been established shall be construed as construction or installation or establishment of a new source.

(24) "New source performance standard (NSPS)" means the federal regulations set forth in 40 C.F.R. part 60.

(25) "Nonattainment area" means a clearly delineated geographic area which has been designated pursuant to federal law as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(26) "Opacity" means the degree to which an object seen through a plume is obscured, excluding uncombined water droplets.

(27) "Particulate matter" means a small, discrete mass of solid or liquid matter, but not including uncombined water.

(28) "Potential emissions" means the emissions of a pollutant from a source operated at maximum capacity in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential rate of a source.

(29) "Primary aluminum plant" means those plants which will or do operate for the purpose of or related to producing aluminum metal from aluminum oxide (alumina).

(30) "Pot line primary emission control system" means the system which collects and removes contaminants prior to the emission point. If there is more than one such system, the primary system is that system which is most directly related to the aluminum reduction cell.

(31) "Reasonably available control technology (RACT)" means the lowest emission limit that a primary aluminum plant is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual plant taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality and the capital and operating costs of the additional controls. RACT requirements for any primary aluminum plant may be adopted as an order or regulation after public hearing.

(32) "Regularly scheduled monitoring" means sampling and analyses in compliance with a program and schedule approved pursuant to WAC 18-52-061.

(33) "Standard dry cubic foot of gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 P.S.I.A. and a temperature of 60°F.

(34) "Upset" means an unexpected sudden occurence which may result in emissions in excess of emission standards.

WAC 18-52-031 EMISSION STANDARDS

(2) The total emission of particulate matter to the atmosphere from the reduction process (pot-lines) shall be reduced to the lowest level consistent with the highest and best practicable technology available to the primary aluminum industry, but in no case shall the emission of solid particulate exceed fifteen pounds per ton of aluminum produced on a daily basis.

(3) Visible emissions from all sources shall not have a density or equivalent opacity such as to obscure an observer's view, for more than three minutes in any hour, to a degree greater than does smoke designated as No. One or twenty per cent density on the Ringelmann Chart as published by the United States Bureau of Mines. This standard shall not apply when the presence of uncombined water is the only reason for failure of an emission to meet this requirement.

(4) Each aluminum mill shall take reasonable precautions to prevent fugitive particulate material from becoming airborne:

- (a) When handling, transporting or storing particulate material on the mill site;
- (b) When constructing, altering, repairing, or demolishing a building, its appurtenances or a road;
- (c) From an untreated open area.

WAC 18-52-041 REVISION OF EMISSION STANDARDS

(1) A public hearing shall be called within ninety days after submission of the results of the special studies provided for under WAC 18-52-080 herein to evaluate the special studies, current technology and adequacy of these regulations, and to make revisions to the regulations, as necessary.

(2) The department may, after public hearing, establish more restrictive emission limits for new primary aluminum plants or for plants that expand existing facilities. Data documenting projected emissions and changes in or effects upon air quality that would result from the construction or expansion must be submitted to the department, together with plans and specifications, in accordance with WAC 18-52-056 (3).

056

WAC 18-52-051 STANDARDS OF PERFORMANCE

For primary aluminum plants which commenced construction after September 24, 1976, Title 40, code of federal regulations, part 60, subparts A and S and appendix A, B, C and D (standards of performance for new stationary sources) as promulgated prior to March 1, 1980, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department of ecology.

-Review

WAC 18-52-056 NEW SOURCE REVIEW

(1) Whenever the construction, installation or establishment of a new primary aluminum plant is contemplated, the owner or operator thereof shall file a notice of construction with the department of ecology.

(2) (a) The replacement of air pollution control equipment or process equipment in an existing process which will not increase potential emissions and will not increase ambient air concentrations of any pollutant does not require a notice of construction provided no changes are made in the process or the size of the source. The department of ecology shall be notified of such proposed change. Demonstration of nonapplicability of notice of construction requirement will be the responsibility of the owner or operator.

(b) Addition to, enlargement, modification, replacement, or alteration of any process or source, other than the replacement of equipment as covered in subsection (2)(a) of this section, which will increase potential emissions or ambient concentrations of any contaminant for which a federal or state emission or ambient standard has been set, will require the filing of a notice of construction. The new source review will apply to that part of the source which is affected and for the contaminants which may be increased.

(3) Within thirty days of receipt of a notice of construction, the department may require the submission of plans, specifications and such other information as deemed necessary for the review of the proposed project.

(4) The department of ecology shall review the notice of construction and plans, specifications, and other information associated therewith in order to determine that:

(a) The proposed project will be in accord with applicable rules and regulations in force pursuant to chapter 70.94 RCW, including a determination that the operation of the new source at the location proposed will not result in any applicable federal or state ambient air quality standard being exceeded.

(b) The proposed project will utilize best available control technology (BACT) for emission control.

(c) If the source is a major source or major modification of an existing source and is located in a nonattainment area, the owner or operator of the proposed new source shall demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in the state are subject to emission limitations and are in compliance or on a schedule for compliance with applicable emission limitations and standards under the federal clean air act.

(d) If the source is a major source or a major modification of an existing source and is located in a nonattainment area, the source will comply with the lowest achievable emission rate (LAER) for emissions of the contaminants for which nonattainment has been designated, except

(i) when the allowable emissions of particulates, sulfur dioxide, carbon monoxide, nitrogen dioxide, or hydrocarbons will not exceed fifty tons per year, one thousand pounds per day, or one hundred pounds per hour; or

(ii) if the source is located in a clean area of a nonattainment area and the allowable emission will not cause or significantly contribute to a violation of the national ambient air quality standards (NAAQS). Significance in this context will be determined by the emission offset interpretive ruling, paragraph II.D, 44 Federal Register 3283

(e) Compliance with federal emission standards for hazardous air pollutants and new source performance standards (NSPS) when applicable to the source will be required.

(f) The proposed project meets all requirements of prevention of significant deterioration regulations, if applicable.

(g) The proposed project will not violate the requirements for reasonable further progress established by the implementation plan. If the new source is a major source or a major modification of an existing source and is located in a nonattainment area or whose emissions significantly affect a nonattainment area, the total allowable emissions from existing sources and the new source, of the contaminants for which nonattainment has been designated, must be less than allowable emissions from existing sources at the time the application for approval was filed except

(i) when the allowable emissions of particulates, sulfur dioxide, carbon monoxide, nitrogen dioxide, or hydrocarbons will not exceed fifty tons per year, one thousand pounds per day, or one hundred pounds per hour;

(ii) if the source is located in a clean area of a nonattainment area and the allowable emissions will not cause or significantly contribute to a violation of the national ambient air quality standards (NAAQS). Significance in this context will be determined by the emission offset interpretive ruling, paragraph II.D, 44 Federal Register 3283.

(h) The emissions from the proposed source will not delay the attainment date for any nonattainment area.

(i) The application of BACT, LAER, and NSPS required by (4)(b) (4)(d) and (4)(e) of this section will be only for those pollutants which will increase potential emissions due to the proposed project.

(5) Within thirty days after receipt of all information required by it, the department of ecology shall:

(a) Make preliminary determinations on the matters set forth in WAC 18-52-056(4).

(b) Make available in at least one location in the county or counties in which the proposed project is located, a copy of the preliminary determination, and copies of or a summary of the information considered in making such preliminary determinations.

(c) Require the applicant to publish notice to the public of the opportunity for written comment on the preliminary determinations within thirty days from the date such notice is made.

(6) If, after review of all information received, including public comment with respect to any proposed project, the department makes any of the determinations of (4)(a) through (h) of this section in the negative, it shall issue an order for the prevention of the construction, installation or establishment of the new stationary source.

(7) If, after review of all information received, including public comment with respect to any proposed project, the department makes the determination of (4)(a), (4)(b), and where applicable (4)(c) through (h) in the affirmative, it shall issue an order of approval of the construction, installation or establishment of the new plant or modification. The order of approval may provide such conditions of operation as are reasonably necessary to assure the continuous compliance with chapter 70.94 RCW and the applicable rules and regulations in force pursuant thereto. The owner or operator of the proposed project shall not commence construction until a notice of construction has been approved by the department.

(8) The owner or operator of a proposed new source shall not commence operations until written permission to commence has been granted by the department. Written permission to commence operation shall be granted within thirty days of receiving notification of completion of construction unless the department finds that the construction, installation, or establishment is not in accord with the plans, specifications, or other information submitted to the department and used to approve the construction.

WAC 18-52-071 REPORTING

(1) Unless otherwise authorized in writing by the Department, data shall be reported by each primary aluminum plant within thirty days of the end of each calendar month in the specified seasons for each source and station included in the approved monitoring program as follows:

(c) Particulate Emissions: Results of all emission sampling conducted during the month for particulates, expressed in grains per standard dry cubic foot, in pounds per day, and in pounds per ton of aluminum produced. The method of calculating pounds per ton shall be as specified in the approved monitoring programs. Particulate data shall be reported as total particulates and percentage of fluoride ion contained therein.

Compliance with WAC 18-52-031(2) shall be determined by measurements of emissions from the pot line primary control system plus measurements of emissions from the roof monitor and other points of emission to the atmosphere. Calculated emissions to the pot rooms from the reduction cells based on hooding efficiency determined for gaseous flouride may be substituted for roof monitor emission measurements in determining compliance with the regulation.

(f) Changes in collection efficiency of any portion of the collection or control system that resulted from equipment or process changes.

(2) Each primary aluminum plant shall furnish, upon request of the department, such other data as the department may require to evaluate the plant's emissions or emission control program.

REGULATION 1

NORTHWEST AIR POLLUTION AUTHORITY

REGULATION 1

CHAPTER I

ORGANIZATION AND GENERAL PROVISIONS

SECTION 1.01 NAME OF AUTHORITY

The multi-county agency, consisting of Island, San Juan, Skagit and Whatcom Counties, having been formed pursuant to the Washington Clean Air Act RCW 70.94, shall be known and cited as the "NorthWest Air Pollution Authority".

SECTION 1.02 SHORT TITLE

This Regulation may be known and cited as "Regulation 1 of the NorthWest Air Pollution Authority".

SECTION 1.03 POLICY

(a) It shall be the policy of the NorthWest Air Pollution Authority to secure and maintain such levels of air quality as will protect human health and safety, prevent injury to plant and animal life and to property and foster the comfort and convenience of the inhabitants of this area in order to facilitate their enjoyment of the area's natural beauty and thus promote the economic and social well being of the area.

(b) In order to carry out the requirements of the Washington Clean Air Act and to provide uniform administration and enforcement, the NorthWest Air Pollution Authority adopts the following set of policies and ambient air quality objectives.

Ambient air quality objectives are deemed necessary and desirable. They serve as a starting point for all air pollution matters. Since pollutants represent ground-level or point-of-use concentrations, they will serve as the basis for the control of source emissions to achieve the ambient air quality objectives.

The establishment of control procedures and emission standards are the administrative means of achieving this goal.

SECTION 1.05 DUTIES AND POWERS

(a) Pursuant to the provisions of the Washington Clean Air Act, and Chapter 62, Laws of 1970 Second Extraordinary Session, 8/7/70, the Board may take such reasonable action as may be necessary to prevent air pollution which may include control or measurement of emission of air contaminant from a source.

The Board shall appoint a Control Officer competent in the field of air pollution control who shall observe and enforce the provisions of all ordinances, orders, resolutions, or rules and regulations of this Authority pertaining to the control and prevention of air pollution. The Board shall establish such procedures and take such action as may be required to implement Section 1.03 in a manner consistent with the State Act and other applicable laws.

(b) The Board shall require that the Control Officer maintain appropriate records and prepare periodic reports.

(c) The Board shall receive minutes of meetings of the Advisory Council as required, the decisions of the Advisory Council shall be forwarded to the Board in writing and shall include minority opinions in cases of serious disagreement.

SECTION 1.07 INVESTIGATIONS AND STUDIES

(a) The Control Officer and/or his qualified agents may make any reasonable investigation or study which is necessary for the purpose of standards or any amendments thereto on reducing the amount or kind of contaminant.

(b) When investigating conditions specific to the control, recovery or release of air contaminants, the Control Officer or his duly authorized representatives shall have the power to enter at reasonable times upon any private or public property, except non-multiple unit private dwellings housing two families or less.

(c) If an authorized employee of the Authority, during the course of an inspection desires to obtain a sample of air contaminant, he shall notify the owner or lessee at the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place. A receipt shall be given to the owner or lessee for the sample obtained.

SECTION 1.09 CONFIDENTIAL INFORMATION

Whenever any records or other information furnished to or obtained by the Authority pursuant to any sections in the State Act as amended, relates to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, the owner or operator of such processes or production may so certify and request that such records or information be made available only for the confidential use of the Board, the Advisory Council and Authority staff. The Board shall give consideration to the request and if such action would not be detrimental to the public interest and is otherwise within accord with the policies and purposes of the Regulations of this Authority and with State Law, may grant the same. No member of the Authority shall access to any confidential information in which he may, in the opinion of the Board, have a conflict of interest.

SECTION 1.11 VIOLATIONS - NOTICE

Whenever the Board or the Control Officer has reason to believe that any provisions relating to the control or prevention of air pollution has been violated, the Board or Control Officer may cause written notice to be served upon the alleged violator or violators. The notice shall specify the Regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the Board or Control Officer may require that the alleged violator or violators appear before the State Hearing Board pursuant to State Law.

SECTION 1.13 ORDERS AND HEARINGS

(a) Any order issued by the Board or by the Control Officer, which is not preceded by a hearing, shall become final unless, no later than 30 days after the date the notice and/or order are served, the person aggrieved by appeals to the State Hearing Board as provided by State Law.

(b) If, after a hearing held as a result of a petition to the Authority by a person aggrieved by an order, the Board finds that a violation has occurred or is occurring, it shall affirm or modify the order previously issued, or if the finding made is that no violation has occurred or is occurring, the order shall be rescinded. If, after a hearing held in lieu of an order, the Board finds that a violation has occurred or is occurring, it shall issue an appropriate order or orders for the prevention, abatement or control of the emissions involved or for the taking of such other corrective actions as may be appropriate. Any order issued as part of a notice or independently may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the emissions.

(c) The Board shall retain authority to hold hearings, issue subpoenaes for witnesses and evidence, and take testimony under oath and do all things not prohibited by or in conflict with State Law.

(d) Any hearings held under this section, under the Washington Clean Air Act or under Chapter 62, Laws of 1970 (Second Ex. Sess.) shall be conducted in accordance with the rules or evidence as set forth in RCW 34.04.100 or as hereafter amended.

SECTION 1.15 APPEALS FROM BOARD ORDERS

Any order issued by the Board after a hearing shall become final unless no later than thirty days after the issuance of such order the aggrieved party appeals to the State Hearing Board as provided by State Law.

SECTION 1.17 STATUS OF ORDERS ON APPEAL

(a) Any order of the Control Officer or the Board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless further interim order is issued by the Hearing Board.

(b) Nothing in the Regulations of this Authority shall prevent the Control Officer or Board from making efforts to obtain voluntary compliance through warning, conference, any other appropriate means or use of any other legal remedy.

SECTION 1.19 INTERFERENCE OR OBSTRUCTION

No person shall willfully interfere with or obstruct the Control Officer or any Authority employee and/or assigned agent in carrying out any lawful duty.

SECTION 1.21 FALSE AND MISLEADING ORAL STATEMENTS: UNLAWFUL REPRODUCTION OR ALTERATION OF DOCUMENTS

(a) No person shall willfully make a false or misleading oral statement to the Board as to any matter within the jurisdiction of the Board.

(b) No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate, or other paper issued by the Authority if the purpose of such reproduction or alteration is to evade or violate any provision of the Regulations of this Authority, or any other law.

SECTION 1.23 DISPLAY OF ORDERS, CERTIFICATES AND OTHER NOTICES: REMOVAL OR MUTILATION PROHIBITED

(a) Any order, or registration certificate required to be obtained by the Regulations of this Authority, shall be available on the premises designated on the order or certificate.

(b) In the event that the Authority requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board.

SECTION 1.25 SERVICE OF NOTICE

(a) Service of any written notice required by the Regulations of this Authority shall be made on the owner or lessee of equipment, or his agent, as follows:

  (1) Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent, at the address listed on his application or order or registration certificate or at the address where the equipment is located, by United States Certified Mail, return receipt requested; or

  (2) By leaving the notice with the owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, with a member of the partnership or other group concerned, or with an officer or managing agent of the corporation.

(b) Service of any written notice required by the Regulations of this Authority shall be made on the Authority as follows:

  (1) Either by mailing the notice in a prepaid envelope directed to the Authority at its office by United States Certified Mail, return receipt requested; or

  (2) By leaving the notice at the Authority office with an employee of the Authority.

SECTION 1.27 SEPARABILITY

If a provision of the Regulations of this Authority is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the constitutionality or validity of every other provision of the Regulations of this Authority shall not be affected thereby.

SECTION 1.29 PENALTY

(a) Any person who violates any provision of the Regulations of this Authority shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment for a term of not more than (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) The Control Officer shall be empowered by the Board to sign official complaints or issue citations or initiate court suits or use other legal means to enforce the provisions of the Regulations of this Authority.

SECTION 1.30 CIVIL PENALTY

In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules and regulations of the Authority shall incur a penalty in the form of a fine in an amount not to exceed two hundred fifty dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation each day's continuance shall be a separate and distinct violation.

Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the State Hearing Board. If the amount of such penalty is not paid to the Authority within thirty days after receipt of notice imposing the same and a request for a hearing has not been made, the attorney for the Authority, upon the request of the Control Officer, shall bring an action to recover such penalty in the Superior Court of the county in which the violation occurred. All penalties recovered under this section by the Board shall be paid into the treasury of the Authority and credited to its funds.

SECTION 1.31 ADDITIONAL ENFORCEMENT

Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provisions of the Regulations of this Authority, or any rule, regulation or order issued by the Board or the Control Officer or his authorized agent, the Board, after notice to such person and an opportunity to comply, may petition either the State Hearing Board or the superior court of the county wherein the violation is alleged to be occurring or to have occurred, for a restraining order or a temporary or permanent injunction or another appropriate order.

SECTION 1.33 GENERAL DEFINITIONS

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in the Regulations of the NorthWest Air Pollution Authority shall have the following meanings.

(a) Agricultural Operation - The growing of crops, the raising of fowl, animals or bees as a gainful occupation.

(b) Air Contaminant - Means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(c) Air Pollution - Is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant, or animal life, or property; or which unreasonably interfere with enjoyment of life and property.

(d) Air Quality Objective - The concentration and exposure time of a contaminant or multiple contaminants in the ambient air below which, according to available knowledge, undesirable effects will not occur.

(e) Air Quality Standard - An established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambinet air which shall not be exceeded.

(f) Alteration - Any addition to or enlargement or replacement of; or any major modification or change of the design, capacity, process or arrangement, or any increase in the connected loading of, equipment or control facility which will significantly increase or adversely affect the kind or amount of air contaminant emitted.

(g) Ambient Air - The air that surrounds the earth excluding the general volume of gases contained within any building or structure.

(h) Authority - NorthWest Air Pollution Authority.

(i) Board - Board of Directors of the NorthWest Air Pollution Authority.

(j) Combustion Equipment - Any device which includes a chamber where combustion takes place and for which a flue, vent, or chimney is required for the venting of the products of combustion from a boiler, furnace, incinerator, stove, heater, industrial furnace, etc.

(k) Complainant - Any person who files a complaint.

(l) Control Facility - Includes any treatment works, control devices and disposal systems, machinery, equipment, structures, property or any part of accessories thereof, installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste which, if released to the outdoor atmosphere could cause air pollution.

(m) Control Officer - Air Pollution Control Officer of the NorthWest Air Pollution Authority.

(n) Daylight Hours - The hours between official sunrise and official sunset.

(o) Emission - The act of releasing into the atmosphere an air contaminant or a gas stream which contains or may contain an air contaminant; or the material released to the atmosphere.

(p) Emission Point - The location (place in horizontal plane and vertical elevation) at which an emission enters the atmosphere.

(q) Emission Standard - Limitation on the release of a contaminant or multiple contaminants to the ambient air.

(r) Equipment - Any stationary or portable device or any part thereof capable of causing the emission of any air contaminant into the atmosphere or ambient air.

(s) Fire Chief - A state, county or city fire marshal, city fire chief; chief of each County Fire Protection District or authorized forestry officials from Washington State Department of Natural Resources.

(t) Fuel Burning Equipment - Any equipment, device, or contrivance, used for the burning of any fuel, and all appurtenances thereto, including ducts, breachings, control equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substances to the products of combustion.

(u) Incinerator - A furnace for the destruction of waste.

(u-1) Input Heat Capacity - In the maximum actual or design heat capacity, whichever is greater, stated in BTU/hr generated by a source.

(v) Installation - The placement, assemblage or construction of equipment or control facility at the premises where the equipment or control facility will be used, and includes all preparatory work at such premises.

(w) Land Clearing Operations - The removal of trees, brush, grass, and buildings for disposal on the site in preparation for a land improvement or construction project as distinguished from a forest harvest operation.

(x) Multiple Chamber Incinerator - Any incinerator consisting of two or more combustion chambers in series, employing adequate design parameters necessary for maximum combustion of the material to be burned.

(y) Odor - That property of a substance which allows its detection by the sense of smell.

(z) Opacity - Opacity means the degree to which an emission reduces the transmission of light and obscures the view of an object in the background.

(aa) Outdoor Fire - A fire where any material is burned in the open, in receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.

(bb) Owner or Agent - Includes the person who leases, supervises or operates the equipment or control facility.

(cc) Particulate Matter - Small discrete masses of liquid or solid, exclusive of uncombined water.

(dd) Person - Means and includes an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

(dd-1) Plant Source - Any person operating a process or group of processes at a single geographic location, regardless of the number of emission points, will constitute an emission as if they were from a single source.

(ee) Portable Equipment - Equipment designed to be transported from place to place for temporary operation.

(ee-1) Process - A physical and/or chemical modification or treatment of a material from its previous state or condition.

(ff) Refuse - Putrescible and non-putrescible solid wastes including garbage, rubbish, ashes, dead animals, abandoned automobiles, solid market wastes, street cleanings, and industrial wastes (including waste disposal in industrial salvage).

(gg) Refuse Burning Equipment - Equipment designed to burn (refuse) waste material, scrap or combustion remains.

(hh) Reid Vapor Pressure - That pressure as determined according to American Society for Testing and Materials method, ASTM - D323-58.

(ii) Ringelmann Smoke Chart - Means the Ringelmann Smoke Chart with instruction for use, as published by the United States Bureau of Mines Information Circular 7718, May 1967.

(jj) Rubbish - Includes non-putrescible solid wastes, including ashes and consisting of both combustible and non-combustible wastes such as paper, cardboard, yard clippings, wood, glass, cans, bedding, household articles and similar materials.

(kk) Smoke - Gas borne particulate matter in sufficient numbers to be observable.

(ll) Stack - Duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air contaminants.

(mm) Standard Cubic Foot of Gas - That amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 P.S.I.A. and a temperature of 60 degrees F.

(nn) State Act - Washington Clean Air Act (RCW 70.94) and Chapter 62, Laws of Washington, 1970 Extraordinary Session.

(oo) State Department - Washington State Department of Ecology.

(pp) Suspended Particulates - Those airborne particulates collected on 8" x 10" sheets of flash-fired glass fiber filter web of given porosity using a high-volume air sampler in the manner adopted by the TR-2 Air Pollution Measurements Committee and published in JAPCA 17:1 (1967).

SECTION 1.35 ADOPTION OF STATE LAW

All provisions of State law as it now exists or may be hereafter amended, which is pertinent to the operation of the Authority is hereby adopted by reference and made a part of the regulations of this Authority.

Specifically, there is adopted the Washington State Clean Air Act (RCW 70.94), the Administrative Procedures Act (RCW 34.04), and Chapter 62, Laws of Washington 1970 (Second Ex. Sess.).

CHAPTER II

AMBIENT AIR QUALITY OBJECTIVES

SECTION 2.01 FOREWORD

(a) Ambient air quality objectives are not to be confused with air quality standards, but are goals to be strived for. They are intended to describe a level of air quality which will:

(1) Not degrade human health and safety.

(2) Avoid injury to plant and animal life and property.

(3) Be consistent with the economic and social well being of the area.

(b) Objectives are designed to serve as a guide:

(1) For the development of ambient and emission standards

(2) In the preparation of long- and short-range objectives for ambient and emission standards, and

(3) For the selection of air pollution control measures for existing and planned facilities which could create air pollution.

(c) The adopted objectives are not intended to represent the ultimate in air quality achievement. As evidence accumulates on the effects of contaminants, and as new and/or revised sampling and analytical procedures become available, present objectives and procedures may be revised and/or additional objectives and procedures may be established.

SECTION 2.03 AMBIENT AIR QUALITY AREAS

(a) Air pollution potentials vary within the jurisdiction of the Authority with varying degrees of social and economic development. These factors in combination with topographic and meteorological elements tend to accentuate or reduce emission effects.

(b) The ambient air quality goals are defined for three areas within the jurisdiction of the Authority.

Area 1 - predominantly used for timber and agricultural crops, farming and recreation. Habitation and industry sparse.

Area 2 - dwelling units, small farms, commercial and office buildings and stores.

Area 3 - primarily light and heavy industry.

(c) The Authority shall receive within 360 days of the adoption of these objectives the delineation of the areas within the jurisdiction of the Authority.

SECTION 2.05 AMBIENT AIR QUALITY OBJECTIVES

	Area		
	1	2	3
Particulates			
Suspended particulates ($\mathrm{mg/m^3}$)			
Sampling period - 24 hours			
50% of annual values less than	0.040	0.050	0.065
84% of annual values less than	0.060	0.075	0.100
Settleable particulates ($\mathrm{mg/cm^2/mo}$)			
Sampling period - 30 days			
50% of annual values less than	0.30	0.45	0.60
84% of annual values less than	0.35	0.55	1.20
Sulfur Dioxide (ppm by volume)			
Sampling period - 24 hours			
50% of annual values less than	0.1	0.1	0.15
Sampling period - one hour			
95% of annual values less than	0.25	0.30	0.40
Sulfuric Acid Mist ($\mathrm{mg/m^3}$)			
Sampling period - 24 hours			
50% of annual values less than	0.1	0.1	0.15
Hydrogen Sulfide (ppm by volume)			
Sampling period - 2 hours			
50% of annual values less than	0.04	0.06	0.10
Total Oxidants (ppm by volume)			
Sampling period - one hour			
50% of annual values less than	0.1	0.15	0.15
Fluorides (ppm by volume as HF)			
Sampling period - 24 hours			
50% of annual values less than	0.001	0.001	0.002

Smoke - The ambient air shall not contain visible smoke which is inconsistent with the economic or social well-being of the community or which will prevent enjoyment and use of property. The ambient air shall not contain dispersed materials in an amount such that the Coefficient Of Haze will exceed 0.5 COH's per one thousand (1000) linear feet of air. The degree of haze present in the ambient air shall be referred to as the Soiling Index.

Odorous Substances - The ambient air shall not contain odorous substances in such concentrations or of such duration as will threaten health or safety or prevent the enjoyment and use of property.

Radioactive Substances - The ambient air shall not contain any radioactive substances in concentrations which are deleterious, either directly or indirectly, to human health or which affect the economic or social well-being of the community.

Other Toxic or Deleterious Substances - The ambient air shall not contain toxic or deleterious substances, in addition to those specifically listed in these objectives, in concentrations and durations which have been demonstrated to adversely affect human health well-being, or unreasonably and adversely affect plant or animal life.

SAMPLING AND ANALYTICAL METHODS

1. Suspended Particulates - "Recommended Standard Method for Atmospheric Sampling of Fine Particulate Matter by Filter Media - High Volume Sampler" TR-2 Air Pollution Measurements Committee JAPCA 17:1 (January 1967).

2. Settleable Particulates - The procedure adopted by the Oregon-Washington Air Quality Committee. October 1968.

3. Sulfur Dioxide - (a) "Fixation of Sulfur Dioxide as Disulfitomercurate (II), Subsequent Colorimetric Estimation" West, P.W., Gaeke, G.C. Anal. Chem. 28: 1816 (1956).

4. Sulfuric Acid Mists - In preparation.

5. Hydrogen Sulfide - Jacobs, et al, Analytical Chemistry 29:1349 (1957) with the Adams cadmium hydroxide - Stractan modification.

6. Oxidants - In preparation.

7. Fluorides - In preparation.

SECTION 2.07 APPLICATION OF OBJECTIVES

(a) The Authority may employ any reasonable method or combination of methods such as area sampling, source sampling, emission evaluation and assessment of source contribution and effect.

(b) Consistent with Section 2.01 (a), of this Regulation, it is the intent of the Authority to establish emission standards such that emissions in one area will not contravene the objectives in another area.

REGULATION 2

CHAPTER I

CONTROL PROCEDURES

SECTION 1.01 SHORT TITLE

This Regulation may be known and cited as "Regulation 2 of the NorthWest Air Pollution Authority".

SECTION 1.03 REGISTRATION REQUIRED

All air contaminant sources within the jurisdiction of the Authority shall be registered with the Authority within 180 days of the effective date of this Regulation except any of the air contaminant sources which are listed in Exhibit "A", which is attached hereto and made a part hereof, as now constituted or as hereafter amended.

SECTION 1.04 APPROVAL TO OPERATE REQUIRED

Before any article, machine, equipment, facility or other contrivance, the use of which may cause emission of air contaminants, may be operated or used, it must first be registered with this Authority and a written approval to operate secured from the Control Officer, unless specifically excluded by Regulation II, Section 1.03 - Exhibit A. An initial registration shall be made and shall expire on December 31 of the calendar year in which issued. At least thirty (30) days prior to the expiration of the registration the registrant shall make application for renewal of the registration, an application for registration shall be submitted to the Control Officer on forms provided by the Authority. Registrant shall submit with the application such data as the Control Officer may reasonably require.

SECTION 1.05 GENERAL REQUIREMENTS FOR REGISTRATION

(a) Registration of an installation shall be made by the owner or lessee of the source, or his agent, on forms furnished by the Authority. The owner of the source shall be responsible for registration and the correctness of the information submitted.

(b) A separate registration shall be required for each source of contaminant; provided that an owner has the option to register a process with a detailed inventory of contaminant sources and emissions related to said process, provided further that, an owner need not make a separate registration for identical units of equipment or control facility installed, altered or operated in an identical manner on the same premises.

(c) Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee.

EXHIBIT "A"

LIST OF EXCLUSIONS ADOPTED BY THE BOARD AND ATTACHED AS ADDENDUM

Exclusion from registration does not absolve the owner, lessee, or agent from all other requirements of the Regulations of this Authority.

1. Air conditioning or ventilating systems not designed to remove air contaminants generated by or released from equipment.
2. Asphalt laying equipment.
3. Atmosphere generators used in connection with metal heat treating processes.
4. Blast cleaning equipment which uses a suspension of abrasive in liquid water.
5. Foundry sand mold forming equipment, unheated.
6. Fuel burning equipment, other than smoke house generators, which:
    (i) is used solely for a private dwelling serving less than five families;
    (ii) has a BTU input of not more than 400,000 BTU per hour.
7. Fumigation vaults.
8. Insecticide spray equipment, non-commercial.
9. Internal combustion engines, including gas turbine and jet engines.

10. Laboratory equipment used exclusively for chemical or physical analyses.

11. Laundry driers, extractors or tumblers used exclusively for the removal of water from fabric.

12. Routing, turning, carving, cutting and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics.

13. Portable equipment which is used within the jurisdiction of the Authority for less than 60 days.

14. Sewing equipment.

15. Surface coating by use of aqueous solution or suspension.

16. Steam cleaning equipment used exclusively for that purpose.

17. Storage tanks, reservoirs, or containers:

    (i) Of a capacity of 6,000 gallons or less used for organic solvents, dilutents or thinners.

    (ii) Of a capacity of 65,000 gallons or less, in the aggregate, used for liquid fuels including gasoline, lubricating oils, tallow, vegetable oil, or wax emulsions.

    (iii) Containing liquids whose vapor pressure is equal to or less than 1.5 psia (78mm) at 100°F (38°C).

    (iv) Containing liquid organic mixtures whose Reid Vapor Pressure is equal to or less than 1.5 lbs.

    (v) Containing liquids which are not vented to the atmosphere.

18. Vacuum producing devices used in laboratory operations, and vacuum producing devices which do not remove or convey air contaminants from or to another source.

19. Vents used exclusively for:

    (i) Sanitary or storm drainage systems; or

    (ii) Safety valves; or

    (iii) Storage tanks; or

    (iv) Non-toxic and non-inflammable gases.

20. Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

21. Water cooling towers, cooling ponds, and barometric condensers.

22. Welding, brazing or soldering equipment.

SECTION 1.07 NOTICE OF CONSTRUCTION - WHEN REQUIRED

(a) No person shall construct, install or establish a new air contaminant source, except those sources excluded in Exhibit "A" of Section 1.05 of this Regulation, without first filing with the Authority a "Notice of Construction and Application for Approval", on forms prepared and furnished by the Authority; provided that, for the purposes of Section 1.07 through 1.17 of this Regulation, alterations shall be construed as construction or installation or establishment of a new air contaminant source.

(b) A Notice of Construction and Application for Approval shall not be required to commence an alteration of equipment or control facility in the event of breakdown or if delaying the alteration may endanger life or have other serious consequences. The Authority shall be notified in writing of the alteration on the first working day after the alteration is commenced and A Notice of Construction and Application for Approval shall be filed within fourteen (14) days after the alteration is commenced.

(c) A separate Notice and Application shall be submitted for each unit of equipment or control facility, unless identical units of equipment or control facility are to be installed, constructed or established in an identical manner on the same premises; provided that said identical units may as a group, be listed on one application but that identical units subsequently added shall require separate Notice and Application; provided also that, the owner has the option to give notice and apply for approval of a process with a detailed inventory of contaminant sources and emissions related to said process.

SECTION 1.09 INFORMATION REQUIRED FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL

(a) Each Notice of Construction and Application for Approval for the construction, installation or establishment of a new air contaminant source as described above shall be accompanied by two sets of plans which show and describe the equipment and control facility, its location and function.

(b) The proposed means for the prevention or control of the emissions of air contaminants.

(c) Each Notice of Construction Application for Approval shall be signed by the applicant or owner who may be required to submit evidence of his authority.

(d) The Board or Control Officer may request additional reasonable information, evidence or documentation to show that the proposed equipment or control facility will meet the emission standards as now or hereinafter set by the Board.

SECTION 1.11 ISSUANCE OF APPROVAL OR ORDER

(a) Within thrity (30) days of receipt of Notice of Construction and Application for Approval, and with the supporting information and data necessary for determination of probable compliance as indicated in Section 1.11 (b) of this Regulation, the Board or Control Officer shall issue an Approval of Construction or an Order that the construction, installation or establishment of a new air contaminant source will not be in accord with the applicable emission standards as are in effect at the time of filing the Notice of Construction and Application for Approval.

(b) No approval will be issued unless the information supplied as required by Subsection 1.09 (a) of this Regulation evidences to the Board or Control Officer that:

1. The equipment is designed and will be installed to operate without causing a violation of the emission standards.

2. The equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the equipment.

3. Equipment having a stack or duct three feet or more in diameter will be provided with:

    (i) Sampling ports of a site, number and location as the Authority may require; and

    (ii) Safe access to each port; and

    (iii) Such other reasonable sampling and testing facilities as the Board or Control Officer may require.

4. Fuel burning equipment and refuse burning equipment will achieve optimum combustion of fuel or refuse material to be burned.

5. All parts of the equipment can be readily cleaned or repaired.

(c) If the Board or Control Officer determines that the construction, installation or establishment of a new air contaminant source will not meet the emission standards, the Board or Control Officer shall, within thirty (30) days of the receipt of the Notice and Application, issue an Order for the prevention of the construction, installation or establishment of the air contaminant source or sources, and,

1. The Order shall be in writing;

2. The Order shall set forth the objections in detail with references to the emission standards that will not be met by the proposed construction, installation or establishment;

3. The Order shall be signed by the Control Officer or his authorized representative.

(d) Any Order issued pursuant to this section shall become final unless, no later than fifteen (15) days after the date the Order is served pursuant to Section 1.25 of Regulation 1, the owner or applicant petitions for a reconsideration of the Order with reasons for the reconsideration.

1. The Board or Control Officer shall consider the petition, and shall within thirty (30) days of receipt of the information required in Section 1.11 (b) of this Regulation, give written notice of approval or disapproval of the petition setting forth the reasons for disapproval.

2. If the petition of the owner or applicant be disapproved, the owner or applicant may petition the State Hearing Board within thirty (30) days after receipt of the notice of disapproval.

(e) Failure to issue such an order or approval within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted. Such failure, however, shall not relieve any person from his obligation to comply with any emission control requirement, or with any other provision of law.

SECTION 1.13 NOTICE OF COMPLETION - ORDER OF VIOLATION

(a) The owner or applicant shall notify the Board or Control Officer of the completion of construction, installation or establishment and the date upon which operation will commence. The Board or Control Officer shall, within thirty (30) days of receipt of notice of completion, inspect the construction, installation or establishment, and the Board or Control Officer may issue an Order of Violation if he finds that the construction, installation or establishment is not in accord with the plans, specifications or other information submitted to the Authority, and will be in violation of the emission standards in existence at the date the order was issued.

(b) Upon receipt of an Order of Violation, the owner may appeal said order in accordance with the provisions and procedures of Section 1.13, 1.15, and 1.17 of Regulation 1.

(c) The issuance of approval as provided by Sections 1.07 through 1.15 of this Regulation, shall not relieve the owner of the obligation to comply with the emission standards as adopted by this Authority, or prevent the Board or Control Officer from issuing such orders as provided by Section 1.11 of Regulation 1.

SECTION 1.14 TESTING AND SAMPLING

(a) Any person operating or using any article, machine, equipment or other contrivance for which these regulations require registration shall provide and maintain such sampling and testing facilities as specified in the approval to construct or the registration to operate.

(b) Before an approval to construct or a registration to operate is granted, the Control Officer may require the owner or applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quality or degree of air contaminants discharged into the atmosphere from the article, machine, equipment or other contrivance described in the notice of construction, or application for registration to operate. In event of such a requirement, the Control Officer shall notify the applicant in writing of the required size, number and location of sampling ports; the size and location of the sampling platform; and the utilities for operating the sampling and testing equipment. The platform, access, and utilities shall be constructed and maintained in accordance with the Rules and Regulations of the State Department of Labor and Industries and other applicable State and Local regulations, rules and ordinances.

(c) Any person operating a registered air contaminant source may, at any time, be required to monitor the ambient air or conduct emission tests as deemed necessary by the Control Officer under the following provisions:

(1) The Board or Control Officer may require any person operating any source to conduct a monitoring program on site or adjacent off site for emissions, ambient air concentrations or any other pertinent special studies deemed necessary.

(2) All monitoring data shall be submitted in a form which the Board or Control Officer may require. Averaging time and collection periods will be determined by the Control Officer.

(3) All data and records shall be kept for a period of at least one year and made available to the Control Officer at his request.

(4) All instruments used in making any studies shall be calibrated and maintained using a procedure approved by the Control Officer.

(5) The Control Officer may take such samples and make any tests and investigations he feels are necessary to determine the accuracy of the monitoring reports and tests submitted to the Authority, and the competence of the persons conducting the monitoring program. He may also require the owner or operator to take a sample at a time and place designated and test such sample using an approved procedure and submit the results thereof within a reasonable period of time.

(6) The Board or the Control Officer may require additional monitoring be undertaken at any reasonable time to insure compliance with these regulations.

SECTION 1.15 CONDITIONAL APPROVAL

The owner or applicant may request a conditional approval for an experimental installation, construction or establishment and said approval may be issued by the Board or Control Officer if it appears to the Board or Control Officer, from all submitted information that the installation, construction or establishment when completed will satisfy the emission standards adopted by the Board. Conditional approval shall be limited to one year maximum and may be renewed by application to the Board or Control Officer.

SECTION 1.16 TRANSFER

A registration, approval to construct, operate or use any article, machine, equipment facility or other contrivance, the use of which may cause emission of air contaminants, shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

SECTION 1.17 VARIANCES

(a) Any person who owns or is in control of any plant, building, structure establishment, process or equipment including a group of persons who owns or controls like processes or like equipment may apply to the Board for a variance from rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:

  (1) The emissions occurring or proposed to occur do not endanger public health or safety; and

  (2) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(b) No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners or property likely to be affected by the discharges, and the general public.

(c) Any variance or renewal thereof shall be granted within the requirements of subsection (a) and for time periods and under conditions consistent with the reasons therefore, and within the following limitations:

  (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measure that the Board may prescribe.

  (2) If the application for variance shows that there is no automobile fragmentizer in the state within a reasonable distance of the wrecking yard for which the variance is sought, a variance will be granted for a period not to exceed three years for commercial burning of automobile

hulks, subject to such conditions as the Board may impose as to climatic conditions and hours during which burning of such hulks may be carried out; PROVIDED HOWEVER, that any variance granted hereunder shall be of no force and effect after July 1, 1970.

(3) If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(4) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in items 1., 2., and 3. of this subparagraph, it shall be for not more than one year.

(d) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.

(e) A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board may obtain judicial review thereof under the provisions of Chapter 34.04 RCW as now or hereafter amended.

(f) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 60, 94.415 to any person or his property.

CHAPTER II

EMISSION STANDARDS

SECTION 2.01 INTRODUCTION

(a) The Authority recognizes the need for accurate source data when attempting to correlate ground-level concentrations with source emissions, or when calculating the expected ground-level concentrations.

(b) Since accurate determination of the required source data is a complex process, procedures for obtaining such data should be developed from the source regulations set forth herein and those in prospect.

(c) In exercising judgement regarding possible ground-level concentrations from stack emission data, three desirable elements are:

(1) source emission rate data obtained by actual measurement

(2) a mathematical model of the community diffusion situation and,

(3) values for parameters of the model

(d) The Authority shall investigate methods of analysis and standards incorporating new developments in the state of the art of measurement and control.

(e) The Authority shall develop guidelines for emission standards for pollutants presently not being emitted in the area of jurisdiction to serve as guides for industries considering locating here. These are to be based on the best experience elsewhere in the nation and consistent with latest technological achievements.

SECTION 2.05 EMISSION OF AIR CONTAMINANT: VISUAL STANDARD

(a) It shall be unlawful for any person to cause or allow the emission of any air contaminant for a period or periods aggregating more than three (3) minutes in any one hour, which is:

(1) Darker in shade than that designated as No. 2 (40% density) on the Ringlemann Chart: or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection

205 (a) (1); provided that 2.05 (a) (2) shall not apply when the particulate emission is not greater than 0.1 grain per standard cubic foot (229 milligrams per standard cubic meter) of exhaust gas except as otherwise provided by specific process emission restrictions adopted by the State Board or this Authority.

(b) It shall be unlawful for any person to cause or allow the emission of any air contaminant from equipment installed subsequent to the effective date of the Regulations of this Authority for a period aggregating more than three (3) minutes in any one hour, which is as dark or darker than that designated as No. 1 (20% density) on the Ringlemann Chart.

(c) The only exceptions to 2.05 (a) and 2.05 (b) shall be as follows:

(1) When an emission occurs due to soot blowing or to conditions beyond the control of the owner or operator. Subject to the determination and concurrence of the Control Officer the emission may be darker than that designated as No. 2 (40% density) on the Ringlemann Chart for a period of not more than fifteen (15) minutes in any 8-hour period; provided that, the operator shall take immediate action to correct the condition; provided further that, the operator will be allowed one (1) hour in any 24-hour period during start-up operations.

(2) In the event of periodic shutdowns, or unavoidable failure or breakdown of any equipment or device or other circumstances beyond the control of any person owning or operating such equipment, including necessary shutdowns of smoke abatement or dust collection equipment for purposes of maintenance or repair, which tends to produce unlawful emissions of smoke particulate or other matter, provided that the owner or operator, subject to the determination and concurrence of the Control Officer, of such equipment or process shall immediately notify the Authority of such shutdown, failure, breakdown or other circumstances, together with the pertinent facts relating thereto and a statement of the date upon which the condition will be rectified and shall proceed forthwith to rectify the condition, and shall also report to the Control Officer when such defect has been removed and when such periodic shutdown is over.

(d) The density or opacity of an air contaminant shall be measured at the point of its emission, except when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.

(e) This section shall not apply when the presence of uncombined water is the only reason for the failure of the emission to meet the requirements of this section.

(f) This section shall not apply to motor vehicles, aircraft, or fires specifically excluded in Section 2.03 of this Regulation, but shall apply to subsection (b), Section 2.03 of this Regulation.

SECTION 2.07 INCINERATOR BURNING

It shall be unlawful for any person to burn any refuse in any incinerator within the boundaries of the Authority except in a multiple chamber incinerator as defined in Section 1.33, Regulation 1, and provided with an emission control facility, or in equipment found by the Control Officer in advance of such use to be equally effective for the purpose of air pollution control.

SECTION 2.09 REFUSE BURNING EQUIPMENT: TIME RESTRICTION

(a) It shall be unlawful for any person to cause or permit the operation of refuse burning equipment at any time other than daylight hours of the same day, except with the approval of the Control Officer.

(b) Approval of the Control Officer for the operation of such equipment may be granted upon the submission of a written request stating:

  (1) The full name and address of the applicant; and

  (2) The location of the refuse burning equipment; and

  (3) A brief description of the refuse burning equipment and its control apparatus; and

  (4) Good cause for the issuance of such approval; and

  (5) The hours, other than daylight hours, during which the applicant seeks to operate the equipment; and

  (6) The length of time for which the exception is sought.

SECTION 2.11 EMISSION OF SULFUR COMPOUNDS

(a) It shall be unlawful for any person to cause or permit the emission of sulfur dioxide from any premises which will result in concentrations and frequencies at ground level that exceed those shown in Table 1.

(b) It shall be unlawful for any person to cause or permit the emission of air contaminants from any equipment if the air contaminants emitted as measured in the stack contains sulfur compounds, calculated as sulfur dioxide, of more than fifteen hundred (1500) parts per million, except as otherwise provided by a specific emission restriction adopted by this Authority and/or the Washington State Department of Ecology. For the purpose of this Section, all sulfur present in gaseous compounds containing oxygen shall be deemed present as sulfur dioxide.

(c) Emissions of sulfur compounds calculated to be in excess of 2,000 parts per million of sulfur dioxide at any emission point shall not constitute a violation of Section 2.11 (b) of this Regulation, provided such person responsible for the emissions provides reasonable evidence that such emissions will not cause ground-level concentrations on adjacent property to exceed the values indicated in Section 2.11 (a) of this Regulation.

(d) It shall be unlawful for any person to operate a contact type sulfuric acid plant and cause or allow the following types of air contaminants to be emitted to the atmosphere in excess of the following emission rates per ton of sulfuric acid produced:

(1) Twenty (20) pounds of sulfur dioxide tail-gas-emission, and,

(2) One (1.0) pound of sulfuric acid mist, and,

(3) Four tenths (0.4) of a pound of sulfur trioxide.

(e) Each person who operates a contact sulfuric acid plant shall submit to the Control Officer a monitoring proposal and monitoring schedule within one hundred and twenty (120) days of the effective date of this regulation. Each proposal shall include:

(1) At least one continuously recording meteorological station equipped to record wind speeds and direction as approved by the Control Officer.

(2) A method of monitoring on a periodic basis the concentration of the sulfur dioxide-tail-gas passing through the absorber into the atmosphere. An emission testing program shall be approved by the Control Officer. Said emission tests shall be made during normal operations, normal shut-downs, start-ups and upset conditions of the process.

(f) It shall be unlawful for any person to burn, sell, or make available for sale for burning in fuel burning equipment, within the jurisdiction of this Authority, any fuel containing a weight of sulfur in excess of that allowed by Subsection 1, 2 and 3 hereof; except as otherwise provided by a specific process emission restriction adopted by this Authority and/or the Washington State Department of Ecology for an aggregate period of time not to exceed thirty (30) days in any twelve (12) month period:

(1) Distillate fuel oil classified as Grade No. 1 (ASTM Designation: D396-69) shall contain three tenths percent (0.3%) of less sulfur by weight.

(2) Distillate fuel oil classified as Grade No. 2 ASTM Designation: D396-69) shall contain five-tenths percent (0.5%) or less sulfur by weight.

(3) All other grades or kinds of fuel oil intended for use in fuel oil burning equipment including ASTM Designation: D396-69 Grades No. 4, 5 and 6 shall contain two percent (2%) or less sulfur by weight.

TABLE 1

MAXIMUM ALLOWABLE SULFUR DIOXIDE
GROUND-LEVEL CONCENTRATIONS

Concentration*	Averaging Time	Frequency of Occurrence
1.0 ppm	5 minutes	Once in any 8-hour period
0.5 ppm	1 Hour	Once in any 4 consecutive days
0.2 ppm	24 Hours	Once in any 30 consecutive days

*Parts per million by volume:

Emissions exceeding the limits established in this subsection . .

(a) shall not constitute a violation of Section 2.11 of this Regulation, provided such emissions, from the emission point to the point of any such concentration, are on property controlled by the person responsible for such emissions.

(b) It shall be unlawful for any person to cause or permit the emission of air contaminant from equipment if the air contaminant emitted as measured in the flue contains sulphur compounds, calculated as sulphur dioxide, of more than 2,000 parts per million. For the purpose of this Section all sulphur present in gaseous compounds containing oxygen shall be deemed to be present as sulfur dioxide.

Tests for determining compliance with Subsection 2.11 (b) of this Regulation, shall be based on integrated samples collected over a period of not less than fifteen (15) consecutive minutes or 90 percent of the time of actual source operation, whichever is less.

SECTION 2.12 EMISSION OF SULFUR COMPOUNDS
Weight/Heat Rate Standard

A. It shall be unlawful for any person to cause or allow the emission of sulfur compounds, calculated as sulfur dioxide, from any source to exceed the following:

(1) All sources are limited to an emission not to exceed 1.5 pounds of sulfur dioxide per million BTU of input heat per hour. PROVIDED: That all sources defined as plant sources shall, between the dates of October 1st. and April 30th of the succeeding calendar year, be limited to an emission to not exceed 1.8 pounds of sulfur dioxide per million BTU of heat input per hour and this proviso shall be of no force or effect after April 30, 1976.

(2) All sources not defined as plant sources may be exempt from subsection (1) of this regulation under the following conditions:

(a) That such exemption is not in excess of thirty (30) days in the aggregate in any calendar year.

(b) That the owner or operator notify the Control Officer immediately when such exemption is contemplated, or as soon as possible after an emergency has occurred, indicating the expected length of time of such exemption and when normal operations have been resumed.

(c) That the Control Officer or Board may require from the owner or operator any additional information deemed necessary to determine the conditions of the proposed exemption and may impose additional restrictions or conditions on the exemption if it is determined that Section 2.11 - Regulation II may be violated and/or applicable ambient air standards exceeded.

B. All sources defined as plant sources shall submit a proposed schedule of compliance with this Section within one hundred and eighty (180) days after the effective date of this Regulation providing the following:

(1) Compliance with this section shall in no event be later than July 1, 1974.

(2) The heat capacity of the entire plant source, the average heat output and the capacity and normal operating conditions of each individual source, which shall be submitted, reviewed and determined annually at a time and using a method determined by the Control Officer.

(3) Each source shall submit plans in accordance with Section 1.07-1.13 Rgulation II, in achieving compliance with this Section.

(4) Any new plants or alterations to existing plants shall be required to use the best available technology which has been adequately demonstrated to achieve compliance with these regulations.

(5) The amount of reduction in sulfur compound emission, calculated as sulfur dioxide, that is expected to be achieved to bring existing emissions into compliance with this Section.

C. All sources defined as plant sources shall submit a monitoring proposal and monitoring schedule within one hundred and twenty (120) days of the effective date of this Regulation. Each proposal shall include:

(1) At least one recording meteorological station equipped to record wind speed and direction and located and operated as approved by the Control Officer. The data shall be capable of being recorded and interpreted as hourly averages.

(2) The sulfur content and quantity of all materials, gaseous or liquid, fed to any boilers, furnaces, heaters, flares or any other facility capable of generating heat, resulting in emissions to the atmosphere. The sulfur content shall be expressed in pounds/hour of sulfur dioxide and shall contain an explanation of how this quantity was actually determined.

(3) The sulfur content and quantity of any other individual source capable of emitting sulfur to the atmosphere in quantities in excess of one hundred (100) pounds/day of sulfur compounds calculated as sulfur dioxide. PROVIDED: that all sources emitting less than one-hundred (100) pounds/day of sulfur compounds, calculated as sulfur dioxide may be estimated collectively as a single emission.

(4) The monitoring proposal complies with provisions of Section 1.14 - Regulation II.

D. All sources with an input heat capacity greater than five hundred million BTU/hour shall be classified as plant sources.

E.

(1) The total emission of all sources located in that portion of Sections 2, 3, 4, 5, 9, Township 34 N. and Sections 21, 27, 28, 29, 32, 33, 34, 35 Township 35 N., Range 2 E., Willamette Meridian, all in Skagit County, Washington and commonly known as the March's Point heavy industrial area; shall not exceed seven thousand (7000) pounds per hour of sulfur compounds, calculated as sulfur dioxide.

(2) When, in his judgment, based upon all available data, the Control Officer reasonably believes that there exists a substantial likelihood that this total is likely to be exceeded, he shall establish additional restrictions on any or all sources of sulfur compounds in said area to maintain a total emission of less than seven thousand (7000) pounds per hour.

F. Emission from flares, torches and waste gas burners used by any plant source subject to this Section shall be governed by the Regulations set forth in this Section, PROVIDED: that emissions from said sources that exceed the limits established by the Regulations of this Authority, shall also be subject to Section 2.21 - Regulation II "Report of Breakdown" when conditions set forth therein are applicable.

EFFECTIVE DATE: DECEMBER 10, 1971

SECTION 2.13 EMISSION OF PARTICULATE MATTER

It shall be unlawful for any person to casue or permit the emission of particulate matter if the emission is in violation of Section 2.05 or if the particulate matter discharged into the atmosphere exceeds the following concentration at the point of emission:

(1) From a single existing source, 0.2 grain per standard cubic foot (458 milligrams per standard cubic meter) of exhaust gas except as otherwise provided by specific process emission restrictions adopted by the State Board of this Authority.

(2) From all refuse burning equipment installed subsequent to the effective date of this amended regulation, 0.10 grain per standard cubic foot (229 milligrams per standard cubic meter) of exhaust gas.

(3) From all fuel burning equipment installed subsequent to the effective date of this amended regulation, 0.05 grain per standard cubic foot (115 milligrams per standard cubic meter) of exhaust gas.

SECTION 2.15 ODOR CONTROL MEASURES

(a) Effective control facilities and measures shall be installed and operated to reduce odor-bearing gases or particulate matter emitted into the atmosphere to a reasonable minimum.

(b) The Board or Control Officer may establish reasonable requirements that the building or equipment be closed and ventilated in such a way that all the air, gases and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.

(c) The ambient air shall not contain odorous substances, such as (but not limited to) hydrogen sulfide, mercaptans, organic sulfides and other aromatic and aliphatic compounds, in such concentration or of such duration as will threaten health or safety or prevent the enjoyment and use of property.

SECTION 2.16 GENERAL NUISANCE

A person shall not discharge from any source whatsoever quantities of air contaminants in sufficient quantities and of such characteristics and duration as is or likely to be, injurious or cause damage to human health, plant or animal life or property; or which unreasonably interfere with enjoyment of life and property of a substantial number of persons.

SECTION 2.17 EMISSION OF AIR CONTAMINANT: CONCEALMENT AND MASKING

(a) It shall be unlawful for any person to willfully cause or permit the installation or use of any device or use of any means which without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate Section 2.05 through 2.15 of this Regulation.

(b) It shall be unlawful for any person to cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety, or welfare of any person.

SECTION 2.19 PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

(a) It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent air pollution.

(b) It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructed, altered, repaired or demolished without taking reasonable precautions to prevent air pollution.

(c) It shall be unlawful for any person to cause or permit untreated open areas located within a private lot or roadway to be maintained without taking reasonable precautions to prevent air pollution.

SECTION 2.21 REPORT OF BREAKDOWN

Emissions exceeding any of the limits established by the Regualtions of the Authority as a direct result of unavoidable upset conditions or unavoidable and unforseeable breakdown of equipment or control facility shall not be deemed in violation provided the following requirements are met:

(a) The upset or breakdown is immediately reported to the Authority.

(b) The person responsible shall upon the request of the Control Officer submit a full report including the known causes and the preventive measures to be taken to minimize or eliminate a re-occurrence.

(c) The Control Officer upon investigation concurs that the upset or breakdown was unavoidable.

SECTION 2.23 FLUORIDES

(a) The following standards shall apply to forage:

  (1) After sampling on a monthly basis, the yearly average fluoride content of the forage should not exceed 40 ppm fluoride ion (ppm F), on a dry weight basis; or be in excess of 60 ppm F for more than two consecutive months, or in excess of 80 ppm F for more than one month.

  (2) In areas where cattle are not grazed continually but are fed cured forage, as hay, for part of the year, the fluoride content of this hay shall be used as the forage fluoride content for as many months as it is fed to establish the yearly average. Computation of the yearly average shall take into consideration periods when cattle may have been grazed outside the area.

  (3) Inasmuch as the standards set forth in paragraph (1) are intended to protect livestock, all forage samples analyzed to determine compliance with such standards shall be representative of forage actually consumed by livestock in the area. Also, in determining compliance in particular cases, consideration shall

be given to the supplemental food of the livestock involved.

(b) The following standards shall apply to the ambient air:

(1) As gaseous fluoride calculated as HF, by volume
4.5 ppb for 12 consecutive hours
3.5 ppb for 24 consecutive hours
2.0 ppb for 1 calendar week
1.0 ppb for 1 calendar month

(2) Inasmuch as the standards set forth in paragraph (1) are intended to protect vegetation, the ambient air analyzed to determine compliance with such standards shall be that existing in the area of the vegetation to be protected.

(c) Forage or air quality levels higher than those specified in paragraphs (a) and (b) shall be permitted to exist in an area where unavoidable due to local conditions and where such higher levels do not or will not be expected to result in significant adverse effects. Similarly, levels lower than those specified in paragraphs (a) and (b) shall be maintained in particular cases where significant adverse effects have occurred or can be expected to occur at the specified levels.

(d) The sampling and analytical techniques, including the number and location of sampling sites, used in determining forage and air quality levels shall be those established by the Authority.

400 - STANDARDS

Section 455 - Emission of Particulate Matter

455.1 No person shall cause or permit emission of particulate matter in excess of 0.10 (0.23 g/m^3) grain/dry standard cubic foot (dscf) corrected to 7% oxygen except:

455.11 From all gaseous and distillate fuel burning equipment, emissions shall not exceed 0.05 (0.11 g/m^3) grain/dscf corrected to 7% oxygen.

(51.13) SECTION 501 OUTDOOR FIRES - GENERAL

501.1 The following outdoor fires are allowed without a written permit from this Authority:

501.11 Fires for pleasure, religious, ceremonial, cooking or like social purposes, or from incense burners and insect pots. Fires from flares, torches and waste gas burners except as used by any plant source subject to Section 460 of these Regulations.

501.12 Fires for which permits have been obtained from the Department of Natural Resources and declared to be for the protection of life and property and/or in the public welfare relating to the following activities: abating a forest fire hazard; prevention of a fire hazard; instruction of public officials in methods of forest fire fighting; and any silvicultural operation to improve the forest lands of the State in accordance with RCW 70.94.660 and 70.94.670.

501.2 It shall be unlawful for any person to cause or allow any outdoor fire:

501.21 During any stage of an air pollution episode as defined in RCW 70.94.710 through 730; or on any day designated by the Control Officer as a "no burn day".

501.22 Containing prohibited materials, including, but not limited to rubber products, asphaltic products, tires, crackcase oil, petroleum wastes, plastics, garbage, dead animals or other like material.

501.23 That emits dense smoke or creates offensive odors or creates a nuisance when burned except for the abatement of a fire hazard when so declared by a governmental agency having a jurisdiction over such fire.

501.24 For salvage of any material or reclamation of materials.

501.25 In violation of any applicable law, rule or regulation of any governmental agency having jurisdiction over such fire.

501.3 It shall be unlawful to cause or allow any of the following outdoor fires without written permit from the Control Officer and/or other governmental agency having jurisdiction over such fires.

501.31 Land clearing by burning may be done only under the following conditions:

501.311 Burning to be conducted during daylight hours only. Fires burning at sunset are to have no fuel added and the fire not disturbed thereafter.

501.312 Burning will be conducted at least 100 yards away from any inhabited structure located on property adjacent to the property upon which the burning is conducted.

501.313 Burning in such a manner as to prevent any smoke and/or particulate matter from being emitted that is or is likely to restrict visibility on a public road or airport landing strip.

501.32 Fires for instructions in the method of fighting fires or testing of fire resistant materials, or testing fire protective fire equipment.

501.33 A fire authorized for the prevention of a fire hazard provided no alternate means of prevention is reasonably available.

501.34 A fire for the disposal of combustible rubbish provided no alternate means of disposal is reasonably available.

501.35 Fires related to agricultural activities for weed abatement, disease and insect control or the development of physiological conditions conducive to increase crop yield.

501.4 Residential burning is allowed without written permit from this Authority under the following conditions:

501.41 One small outdoor fire at a time and each pile is extinguished before another is ignited;

501.42 Fires are started only between the hours of 10:00 A.M. and sunset;

501.43 There is a person in attendance at the site of the fire at all times and the fire is extinguished before leaving it.

501.5 It shall be prima facie evidence that the person who owns or controls property on which an outdoor fire occurs has caused or allowed said outdoor fire.

REGULATION I
OF THE
PUGET SOUND
AIR POLLUTION CONTROL AGENCY

ARTICLE 1

POLICY, SHORT TITLE AND DEFINITIONS

SECTION 1.01 POLICY

The Puget Sound Air Pollution Control Agency, consisting of the counties of Pierce, King, Snohomish and Kitsap, having been activated by the Washington Clean Air Act, RCW 70.94, adopts the following Regulation to control the emission of air contaminants from all sources within the jurisdiction of the Agency; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of the Washington Clean Air Act.

It is hereby declared to be the public policy of the Puget Sound Air Pollution Control Agency to secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, seek public participation in policy planning and implementation.

Appendix B-2 (7/18/72)

SECTION 1.03 NAME OF AGENCY

The name of the multicounty Air Pollution Control Agency comprised of the activated or inactivated air pollution control authorities of King County, Pierce County, Snohomish County and such other counties whose air pollution control authorities' may now or later merge with this multicounty authority shall be known and cited as the "Puget Sound Air Pollution Control Agency."

SECTION 1.05 SHORT TITLE

This Regulation may be known and cited as "Regulation 1 of the Puget Sound Air Pollution Control Agency."

SECTION 1.07 GENERAL DEFINITIONS

When used in Regulation I of the Puget Sound Air Pollution Control Agency:

(a) "Agricultural operation" means the growing of crops, the raising of fowl, animals or bees as a gainful occupation.

(b) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(c) "Air pollution" is the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(d) "Alteration" means any addition to or enlargement or replacement of, or any major modification or change of the design, capacity, process or arrangement, or any increase in the connected loading of, equipment or control apparatus which will significantly affect the kind or amount of air contaminant emitted.

(e) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(f) "Authority" and/or "Agency" means the Puget Sound Air Pollution Control Agency.

(g) "Board" means the Board of Directors of the Puget Sound Air Pollution Control Agency.

(h) "Control apparatus" means any device which prevents or controls the emission of any air contaminant.

(i) "Control Officer" means the Air Pollution Control Officer of the Puget Sound Air Pollution Control Agency.

(j) "Emission" means a release into the outdoor atmosphere of air contaminants.

(k) "Equipment" means any stationary or portable device or any part thereof capable of causing the emission of any air contaminant into the atmosphere.

(l) "Equipment used in a manufacturing process" means equipment, as defined in Subsection 1.07 (k) in which some air contaminant emitted is caused by a manufacturing process.

(m) "Excess Air" means the quantity of air which exceeds the theoretical quantity of air required for complete combustion.

(n) "Fire Chief" means a County Fire Marshal; City Fire Chief; Chief of each County Fire Protection District or his authorized representative; or authorized forestry officials from the Washington State Department of Natural Resources.

(o) "Fuel burning equipment" means equipment, as defined in Subsection 1.07 (k) other than internal combustion engines and marine installations, the principal purpose of which is the production of hot air, hot water or steam.

(p) "Incinerator" means a furnace for the destruction of waste.

(q) "Installation" means the placement, assemblage or construction of equipment or control apparatus at the premises where the equipment or control apparatus will be used, and includes all preparatory work at such premises.

(r) "Marine installation" means equipment, as defined in Subsection 1.07 (k) installed on a vessel or on any device which floats in the water.

(s) "Motor vehicle" means equipment, as defined in Subsection 107 (k), propelled by an internal combustion engine in or upon which a person or material may be transported on the ground.

(t) "Multiple chamber incinerator" means any incinerator consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

(u) "Outdoor fire" means the combustion of material in the open or in a container with no provision for control of such combustion or the control of the emissions of the combustion products.

(v) "Owner" includes the person who leases, supervises or operates the equipment or control apparatus.

(w) "Particulate matter" means any material, except water in an uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

(x) "Process weight" means total weight of the materials consumed or charged in any specific process including solid fuels charged, but excluding liquid and gaseous fuels, and combustion air.

(y) "Process weight per hour" means process weight divided by number of hours from the beginning of any specific process to the completion of the process, excluding any time during which the equipment used in the process is idle.

(z) "Person" means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality or governmental agency.

(aa) "Portable equipment" means equipment, as defined in Subsection 1.07 (k) designed to be transported from place to place for temporary operation.

(bb) "Refuse burning equipment" means equipment as defined in Subsection 1.07 (k), designed to burn waste material, scrap, or combustible remains.

(cc) "Regulation" means any regulation or any subsequently adopted additions or amendments thereto of the Puget Sound Air Pollution Control Agency.

(dd) "Standard cubic foot of gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at standard conditions.

(ee) "Power boiler" means fuel burning equipment used to produce steam or vapor at a pressure exceeding 15 lbs. per square inch gauge.

(ff) "State Act" means the "Washington Clean Air Act".

(gg) "Travel asphalt plant" means any asphalt plant specifically designed by a manufacturer as a travel asphalt plant and customarily used in the industry to locate near the job site.

(hh) "ppm" means part per million parts by volume.

(ii) "Primary Air Mass Station" or "PAMS" means a type of station designed to measure contamination in an air mass and representing a relatively broad area. The sampling site shall be representative of the general area concerned and not be contaminated by any special source. The probe inlet shall be a minimum of twenty feet and a maximum of one hundred fifty feet above ground level. Actual elevation should vary to prevent adverse exposure conditions caused by surrounding buildings and terrain. The probe inlet shall be placed approximately twenty feet above the supporting rooftop.

(jj) "PGLMS" means a station designed to provide information on contaminant concentrations near the ground and provide data valid for the immediate area only. "The probe inlet shall be ten to twenty feet above ground level with a desired optimum height of twelve feet.) The probe inlet shall not be less than two feet from any building or wall. The sampling site shall be representative of the immediate area and not be contaminated by any unique source.

(kk) "Special Station" or "SS" means any station that does not meet the criteria or purpose of a Primary Air Mass Station or a Primary Ground Level Monitoring Station.

(ll) "Standard conditions" means 70 degrees Fahrenheit and 29.92 in. Hg."

(mm) "Residential burning" means small outdoor fires consisting of leaves, clippings, prunings, and wood, so long as it has not been treated by an application of prohibitive material or substances, and other yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling and burned on such lands by the property owner or his disignee.

(nn) "Land clearing burning" means outdoor fires consisting of residue of a natural character such as trees, stumps, shrubbery or other natural vegetation arising from land clearing projects and burned on the lands on which the material originated.

(oo) "Small outdoor fire" means a fire in a pile no more than four (4) feet in diameter and three (3) feet in height.

ARTICLE 3

GENERAL PROVISIONS

SECTION 3.01 DUTIES AND POWERS OF THE BOARD

(a) Pursuant to the provisions of the "Washington Clean Air Act", the Board may take such reasonable action as may be necessary to prevent air pollution which may include control or measurement of the emission of air contaminant from a source. The Board shall appoint a Control Officer competent in the field of air pollution control who shall observe and and enforce the provisions of this Regulation and all orders, ordinances, resolutions, or rules and regulations of this Authority pertaining to the control and prevention of air pollution. The Board shall establish such procedures and take such action as may be required to implement Section 1.01 of this Regulation consistent with the State Act and other applicable laws.

(b) The Board shall require that the Control Officer maintain appropriate records and prepare periodic reports.

SECTION 3.03 INVESTIGATIONS AND STUDIES BY THE CONTROL OFFICER

The Control Officer and/or his qualified agents may make any reasonable investigation or study which is necessary for the purpose of enforcing this Regulation or any amendment thereto or controlling or reducing the amount or kind of air contaminant.

SECTION 3.05 INVESTIGATION BY CONTROL OFFICER

(a) For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representatives shall have the power to enter at reasonable times upon any private or public property, with the permission of the owner or his duly authorized representative.

(b) If an authorized employee of the Authority during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place and the authorized employee of the Authority shall give a receipt to the owner or lessee for the sample obtained.

SECTION 3.07 CONFIDENTIAL INFORMATION

Whenever any records or other information furnished to or obtained by the Authority, pursuant to any sections in Chapter 70.94 RCW, relate to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Authority.

SECTION 3.09 VIOLATIONS - NOTICE

Whenever the Board or the Control Officer has reason to believe that any provisions of this Regulation relating to the control or prevention of air pollution has been violated, the Board or Control Officer may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provisions of this Regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the Board or the Control Officer may require that the alleged violator or violators appear before the Hearings Board as provided for in Chapter 43.21B RCW for a hearing pursuant to the provisions of Chapter 34.04 RCW as now or hereafter amended, or in addition to or in place of an order or hearing, the Hearings Board created in Chapter 43.21B RCW may initiate action pursuant to RCW 70.94.425, 70.94.430, and 70.94.435.

SECTION 3.11 ORDERS AND HEARINGS

Any order issued by the Board or by the Control Officer shall become final unless such order is appealed to the Hearings Board as provided in Chapter 43.21B RCW.

SECTION 3.12 APPEALS FROM BOARD ORDERS

Any order issued by the Board after a hearing shall become final unless no later than thirty days after the issuance of such order a notice of appeal is filed with the Hearings Board as provided in Chapter 43.21B RCW.

SECTION 3.13 STATUS OF ORDERS ON APPEAL

(a) Any order of the Control Officer or the Board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing, the superior court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

(b) Nothing in this Regulation shall prevent the Control Officer or Board from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

SECTION 3.15 INTERFERING WITH OR OBSTRUCTING AGENCY PERSONNEL

No person shall willfully interfere with or obstruct the Control Officer or any Agency employee in carrying out any lawful duty.

SECTION 3.17 FALSE AND MISLEADING ORAL STATMENTS: UNLAWFUL REPRODUCTION OR ALTERATION OF DOCUMENTS

(a) No person shall willfully make a false or misleading oral statement to the Board as to any matter within the jurisdiction of the Board.

(b) No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate, or other paper issued by the Agency if the purpose of such reporduction or alteration is to evade or violate any provision of this Regulation or any other law.

SECTION 3.19 DISPLAY OF ORDERS, CERTIFICATES AND OTHER NOTICES: REMOVAL OR MUTILATION PROHIBITED

(a) Any order, or registration certificate required to be obtained by this Regulation, shall be available on the premises designated on the order or certificate.

(b) In the event that the Agency requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board.

SECTION 3.21 SERVICE OF NOTICE

(a) Service of any written notice required by this Regulation shall be made on the owner or lessee of equipment, or his agent, as follows:

   (1) Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent, at the address listed on his application or order or registration certificate or at the address where the equipment is located, by United States Certified Mail, return receipt requested; or

   (2) By leaving the notice with the owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, with a member of the partnership or other group concerned, or with an officer or managing agent of the corporation.

(b) Service of any written notice required by this Regulation shall be made on the Agency as follows:

(1) Either by mailing the notice in a prepaid envelope directed to the Agency at its office by United States Certified Mail, return receipt requested; or

(2) By leaving the notice at the Agency office with an employee of the Agency.

SECTION 3.23 SEPARABILITY

If a provision of this Regulation is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality or validity of every other provision of this Regulation shall not be affected thereby.

SECTION 3.25 PENALTY

(a) Any person who violates any provision of this Regulation shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars nor more than One Thousand Dollars, or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) The Control Officer shall be empowered by the Board to sign official complaints or issue citations or initiate court suits or use other legal means to enforce the provisions of this Regulation.

SECTION 3.27 ADDITIONAL ENFORCEMENT

Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this Regulation, or any rule, regulation or order issued by the Board or the Control Officer or his authorized agent, the Board, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred, for a restraining order or a temporary or permanent injuction or another appropriate order.

SECTION 3.29 CIVIL PENALTY

In addition to or as an alternate to any other penalty provided for herein or by law, any person who violates any of the provisions of this regulation shall incur a penalty in the form of a fine in an amount not to exceed two hundred fifty dollars per day for each violation. Each sum violation shall be a separate and distinct offense, and, in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer or his representative of the authority, describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Hearings Board. The hearing shall be conducted pursuant to the provisions of Chapter 43.21B RCW. If the amount of such penalty is not paid to the Board within thirty(30) days after receipt of notice imposing the same, and a request for a hearing has not been made, the attorney for the Agency shall bring action to recover such penalty in the Superior Court of the County in which the violation occurred. All penalties recovered under this section shall be put into the treasury of the Agency and credited to its funds.

To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of this regulation which shall be enforced as provided by RCW 60.36.050.

SECTION 5.03 REGISTRATION REQUIRED

All air contaminant sources within the jurisdiction of the Authority shall be registered with the Authority, except any of the air contaminant sources which are listed in Exhibit "A," which is made a part hereof as now constituted or hereafter amended.

SECTION 5.05 GENERAL REQUIREMENTS FOR REGISTRATION

(a) Registration of an installation shall be made by the owner or lessee of the source, or his agent, on forms furnished by the Agency. The owner of the source shall be responsible for registration and the correctness of the information submitted.

(b) A separate registration shall be required for each source of contaminant; provided that, an owner has the option to register a process with a detailed inventory of contaminant sources and emissions related to said process; provided further that, an owner need not make a separate registration for identical units of equipment or control apparatus installed, altered or operated in an identical manner on the same premises.

(c) Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee.

EXHIBIT "A"

LIST OF EXCLUSIONS ADOPTED BY THE BOARD AND ATTACHED AS ADDENDUM

(1) Air conditioning or ventilating systems not designed to remove contaminant generated by or released from equipment.

(2) Atmosphere generators used in connection with metal heat treating processes.

(3) Blast cleaning equipment which uses a suspension of abrasive in liquid water.

(4) Foundry sand mold forming equipment, unheated.

(5) Fuel burning equipment, other than smoke house generators, which:

  (i) Is used solely for a private dwelling serving less than five families; or

  (ii) Has a BTU input of not more than 1 million BTU per hour.

(6) Fumigation vaults.

(7) Insecticide spray equipment, non-commercial.

(8) Internal combustion engines, including gas turbine and jet engines.

(9) Laboratory equipment used exclusively for chemical or physical analyses.

(10) Laundry driers, extractors or tumblers used exclusively for the removal of water from fabric.

(11) Routing, turning, carving, cutting and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics.

(12) Portable equipment which is used within the jurisdiction of the Agency for less than 60 days.

(13) Sewing equpment.

(14) Surface coating by use of aqueous solution or suspension.

(15) Steam cleaning equipment used exclusively for that purpose.

(16) Storage tanks, reservoirs, or containers:

  (i) Of a capacity of 6,000 gallons or less used for organic solvents, diluents or thinners.

  (ii) Of a capacity of 40,000 gallons or less used for liquid fuels including gasoline, lubricating oil, tallow, vegetable oil, or wax emulsions.

(17) Vacuum cleaning systems used exclusively for industrial, commercial or residential housekeeping.

(18) Vacuum producing devices used in laboratory operations, and vacuum producing devices which do not remove or convey air contaminant from or to another source.

(19) Vents used exclusively for:

  (i) Sanitary or storm drainage systems; or

  (ii) Safety valves; or

  (iii) Storage tanks.

(20) Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

(21) Water cooling towers and cooling ponds, except for barometric condensers.

(22) Welding, brazing or soldering equipment.

(23) Marine installations not within the jurisdiction of the Agency for longer than 60 days per year.

(24) Asphalt laying equipment.

SECTION 6.03 NOTICE OF CONSTRUCTION - WHEN REQUIRED

(a) No person shall construct, install or establish a new air contaminant source, except those sources that are excluded in Exhibit "A" of Section 5.03 of this Regulation unless a "Notice of Construction and Application for Approval," on forms prepared and furnished by the Authority, has been filed and approved by the Authority in accordance with Sections 6.07 (a), 6.07 (e), or 6.11. For purposes of this Article, alterations shall be construed as construction, installation or establishment of a new air contaminant source.

(b) A Notice of Construction and Application for Approval shall not be required to commence an alteration of equipment or control apparatus in the event of breakdown or if delaying the alteration may endanger life or have other serious consequences. The Authority shall be notified in writing of the alteration on the first working day after the alteration is commenced and a Notice of Construction and Application for Approval shall be filed within fourteen (14) days after the day the alteration is commenced.

(c) A separate Notice and Application shall be submitted for each unit of equipment or control apparatus, unless identical units of equipment or control apparatus are to be installed, constructed or established in an identical manner on the same premises; provided that, the owner has the option to give notice and apply for approval of a process with a detailed inventory of contaminant sources and emissions related to said process.

SECTION 6.04 FILING FEES - NOTICE OF CONSTRUCTION

The following fees shall be paid upon the filing of an application for a Notice of Construction with the Agency, in addition to a Filing Fee of $25.00:

ITEM	PLAN EXAMINATION & INSPECTION FEE
(a) Fuel burning equipment in million btu/hr input (design)	
1.0 or more but less than 5.0 (installation)	$ 50.00
1.0 or more but less than 5.0 (fuel change)	15.00
5.0 or more but less than 10.0 (installation)	100.00
5.0 or more but less than 10.0 (fuel change)	35.00
10.0 or more (installation)	150.00
10.0 or more (fuel change)	50.00
(b) Standard cubic feet per minute (SCFM) from control equipment or from uncontrolled process equipment	
less than 5,000	$ 50.00
5,000 or more but less than 20,000	100.00
20,000 or more but less than 50,000	150.00
50,000 or more but less than 100,000	200.00
100,000 or more	250.00

(c) Refuse Burning Equipment
Primary Chamber area, in square feet

less than 8.0	$ 50.00
8.0 or more but less than 25.0	75.00
25.0 or more	100.00

(d) Storage Tanks, gallons

6,000 or more but less than 40,000*	$ 50.00
40,000 or more but less than 100,000	100.00
100,000 or more but less than 500,000	200.00
500,000 or more	250.00

*excluding liquid fuels, lubricating oil, tallow, vegetable oil or wax emulsions

(e) Plan examination and inspection fees for Notices of Construction for portable asphalt batch plants being relocated within the jurisdictional boundaries of the Agency shall be one-half of the above fees; Provided, that, the batch plant or rock crusher was previously inspected and approved by the Agency and no change has been made in the type, model, capacity or efficiency of equipment or control device and there has been no change in the air contaminant emission rates.

(f) Other, not classified above.	$50.00

SECTION 6.05 INFORMATION REQUIRED FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL

(a) Each Notice of Construction and Application for Approval for the construction, installation or establishemnt of a new air contaminant source, as above described, shall be accompanied by two sets of plans which show and describe in detail the following:

(1) The equipment or control apparatus covered by the Notice and Application;

(2) Any equipment connected, attached to, or serving or served by the unit of equipment or control apparatus covered by the Notice and Application;

(3) A plat plan, including the distance and height of buildings within a reasonable distance from the place where the equipment is or will be installed;

(4) The proposed means for the prevention or control of the emissions of air contaminant;

(5) Any additional information, evidence or documentation required by the Board or the Control Officer to show that the proposed equipment or control apparatus will meet the emissions standards as now or hereinafter set by the Board.

(6) Each Notice of Construction and Application for Approval shall be signed by the applicant or owner, who may be required to submit evidence of his authority.

SECTION 6.06 PUBLIC NOTICE MAY BE REQUIRED

(a) Within fifteen (15) days of the receipt of the information required by Section 6.05, the Board or Control Officer shall publish notice to the public of the opportunity to submit written comment during a thirty (30) day period under any of the following conditions:

(1) If otherwise required by the state or federal laws or regulations; or
(2) If the proposed source would cause an annual increase of ten (10) tons of any air contaminant for which ambient air quality standards have been established; or
(3) If the Board or Control Officer determines that such public comment would be appropriate.

(b) The cost of publishing any public notice required by Section 6.06(a) shall be paid by the owner or applicant to the Agency in an amount not to exceed $20.00.

(c) Such public notice shall contain the following information:

(1) Name and address of the owner
(2) Brief description of proposed construction
(3) The location at which a copy of the preliminary determination and a summary of information considered in making such preliminary determination are available to the public.

SECTION 6.07 ISSUANCE OF APPROVAL OR ORDER

(a) Within thirty (30) days of receipt of Notice of Construction and Application for Approval, the Board or Control Officer shall issue an Approval of Construction, or in Order that the construction, installation or establishment of a new air contaminant source will not be in accord with the applicable emissions standards as are in effect at the time of filing the Notice of Construction and Application for Approval.

(b) No approval will be issued unless the information supplied as required by Subsection 6.05 (a) evidences to the Board or the Control Officer that:

(1) The equipment is designed and will be installed to operate without causing a violation of the emissions standards.

(2) The equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the equipment;

(3) Equipment having a stack or duct 3 feet or more in diameter will be provided with:

   (i) Sampling ports of a size, number and location as the Authority may require; and

   (ii) Safe access to each port; and

   (iii) Such other reasonable sampling and testing facilities as the Board or Control Officer may require;

(4) Fuel burning equipment and refuse burning equipment will achieve optimum combustion of the fuel or refuse material to be burned;

(5) All parts of the equipment can be readily cleaned or repaired.

(c) If the Board or Control Officer determines that the construction, installation or establishment of a new air contaminant source will not meet the emission standards, the Board or Control Officer shall, within thirty (30) days of the receipt of the Notice and Application, issue on Order for the prevention of the construction, installation or establishment of the air contaminant source or sources, and,

(1) The Order shall be in writing;

(2) The Order shall set forth the objections in detail with references to the emissions standards that will not be met by the proposed construction, installation or establishment;

(3) The Order shall be signed by the Control Officer or his authorized representative.

(d) Any Order issued pursuant to this section shall become final unless, no later than fifteen (15) days after the date the Order is served pursuant to Section 3.21 of this Regualtion, the owner or applicant petitions for a reconsideration of the Order, with reasons for the reconsideration.

(1) The Board or Control Officer shall consider the petition, and shall within thirty (30) days give written notice or disapproval of the petition setting forth the reasons for disapproval.

(2) If the petition of the owner or applicant be disapproved, the owner or applicant may petition the Hearings Board for a hearing within thirty (30) days of receipt of the notice of disapproval and proceed under the procedure as set forth in Section 3.11 and 3.12 of this Regulation.

(e) Failure to issue such an order or approval within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications, or other information, if any, required to be submitted. Such failure, however, shall not relieve any person from his obligation to comply with any emission control requirement, or with any other provision of law.

SECTION 6.09 NOTICE OF COMPLETION - ORDER OF VIOLATION

(a) The owner or applicant shall notify the Board or Control Officer of the completion of construction, installation or establishment and the date upon which operation will commence. The Board or Control Officer shall, within thirty (30) days of receipt of notice of completion, inspect the construction, installation or establishment, and the Board or Control Officer may issue an Order of Violation if he finds that the construction, installation or establishment is not in accord with the plans, specifications or other information submitted to the Agency, and will be in violation of the emissions standards in existence at the date the order was issued.

154

(b) Upon receipt of an Order of Violation, the owner may appeal said order in accordance with the provisions and procedures in Section 3.11, 3.12, and 3.13 of this Regulation.

(b) The issuance of approval as provided by this Article and Section 6.07 shall not relieve the owner of the obligation to comply with the emission standards as adopted by this Agency, or prevent the Board or Control Officer from issuing such orders as provided by Section 3.09 of Article 3 of this Regulation.

SECTION 6.11 CONDITIONAL APPROVAL

The owner or applicant may request a conditional approval for an experimental installation, construction or establishment and said approval may be issued by the Board or Control Officer if it appears to the Board or Control Officer, from all submittted information, that the installation, construction or establishment when completed will satisfy the emissions standards adopted by the Board.

ARTICLE 7

VARIANCES

SECTION 7.01 VARIANCES

(a) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who owns or controls like processes or like equipment may apply to the Board for a variance from rules or regulations governing the quality, nature, duration or extent of discharge of air contaminants. The application shall be accompanied by such information and data as the Board may require. The hearing held hereunder shall be conducted in accordance with the rules of evidence as set forth in RCW 34.04.100 as now or hereafter amended. The Board may grant such variance, but only after public hearing on due notice, if it finds that:

(1) The emissions occurring or proposed to occur do not endanger public health or safety; and

(2) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(b) No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

155

(c) Any variance or renewal thereof shall be granted within the requirements of subsection (a) and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention. abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the Board may prescribe.

(2) If the application for variance shows that there is no automobile fragmentizer within a reasonable distance of the wrecking yard for which the variance is sought, a variance will be granted for a period not to exceed three years for commercial burning of automobile hulks, subject to such conditions as the Board may impose as to climatic conditions and hours during which burning of such hulks may be carried out: PROVIDED, HOWEVER, that any variance granted hereunder shall be of no force and effect after July 1, 1970.

(3) If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(4) If the variance is granted on the grounds that it is justified to relieve or prevent hardship of a kind other than that provided for in item (1), (2), and (3) of this subparagraph, it shall be for not more than one year.

(d) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.

(e) A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board may obtain judicial review thereof only under the provisions of Chapter 43.21B RCW.

(f) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.415 of Washington Clean Air Act to any person or his property.

SECTION 9.02 OUTDOOR FIRES

(a) Policy. It is the policy of the Puget Sound Air Pollution Control Agency to achieve and maintain high levels of air quality and to this end minimize to the greatest extent reasonably possible the burning of outdoor fires. Consistent with this policy, the Board of Directors does hereby declare that such fires should be allowed only on a limited basis under strict regulation and close control, such program to be implemented by a one-permit system. It is the further policy of the Board to encourage the fostering and development of an alternate technology or method of disposing of wastes which is reasonably economical and less harmful to the environment.

(b) It shall be unlawful for any person to cause or allow any outdoor fire:

(1) In an area where the Board has prohibited outdoor burning under Section 11.01; or

(2) During any stage of an air pollution episode as defined in RCW 70.94.710 through 70.94.730; or

(3) Containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, or any substance other than natural vegetation which normally emits dense smoke or obnoxious odors; or

(4) For the purpose of demolition, salvage or reclamation of materials.

(5) In violation of any applicable law, rule or regulation of any governmental agency having jurisdiction over such fire.

157

(c) The following outdoor fires are exempt from subsections 9.02 (b) (I) and 9.02 (d):

- (1) Small outdoor fires for pleasure, religious ceremonial, cooking, or like social purposes;
- (2) Fires from torches, incense burners, insect pots, flares and smokeless waste gas burners;
- (3) Fires for abating a forest fire hazard, to prevent a fire hazard, for instruction of public officials in methods of forest fire fighting, and any silvicultural operation to improve forest lands where and when permitted by the State Department of Natural Resources under RCW 70.94.650 through RCW 70.94.700.
- (4) Fires for disease control, pest control, and weed abatement related to agricultural activities provided:
  - (i) Prior written approval has been issued by the Control Officer or the Board; and
  - (ii) Written confirmation has been furnished by a designated county extension agent or agricultural specialist designated by the Cooperative Extension Service that burning is recommended practice for the control or prevention of the disease, pest, or weed.

(d) It shall be unlawful for any person to cause or allow an outdoor fire except under the following conditions:

- (1) For residential burning of wood, so long as it has not been treated by an application of prohibitive material or substances, and of natural vegetation which are allowed at any time during the year, subject to the following conditions:
  - (i) Fires are conducted only by the resident of a single family residence.
  - (ii) Fires are started only between 10:00 a.m. and sunset;
  - (iii) Only one pile is burned at a time and each pile is extinguished before another is lighted;
  - (iv) No burning is conducted within fifty (50) feet of any structure.

(2) For land clearing burning:

(i) Burning is not conducted in an area with a general population density of 2,500 or more persons per square mile;

(ii) Burning is not conducted with 100 feet of any structure other than that located on the property on which the burning is conducted;

(iii) Burning is not conducted within the urbanized area as defined by the United States Bureau of the census unless the Agency has verified that the average population density on the land within 0.6 miles of the proposed burning site is 2,500 persons per square mile or less.

(3) For other burning:

(i) Prior written approval has been issued by the Control Officer or Board; and

(ii) Burning is conducted at such times and under such conditions as may be established by the Control Officer or Board.

(e) Nothing contained in this section shall alter or change requirements or provisions of RCW 70.94.650 through RCW 70.94.700, 70.94.710 through 76.94.730, and 76.04.150 through 76.04.170.

(f) Sections 9.03, 9.04, 9.05, 9.06, 9.09, 9.11 (a), 9.13, 9.15 and 9.16 of Regulation I do not apply to outdoor fires which are conducted in compliance with Section 9.02 of Regulation I..

(g) It shall be prima facie evidence that the person who owns or controls property on which an outdoor fire occurs has caused or allowed said outdoor fire.

(h) Any person, firm or corporation who violates any of the provisions and sections of this resolution shall be subject to any and all penalties or other remedies as provided for in Chapter 70.94 RCW and Regulation I.

(i) Nothing contained in Section 9.02 except during any stage of an air pollution episode as defined in RCW 70.94.710 through 70.94.730 shall prohibit fires for instruction in the method of fighting fires, testing resistant material, or testing fire protection equipment provided prior written approval has been issued by the Control Officer or

Board and such fires are conducted at such times and under such conditions as may be established by the Control Officer or Board.

(j) Nothing contained in Section 9.02 shall be construed to allow outdoor fires in those areas in which open burning is prohibited by laws, ordinances, or regulations of the State or any city, county, or fire district.

(k) Nothing contained in Section 9.02 shall relieve the applicant from obtaining permits required by any state or local fire protection agency.

SECTION 9.03 EMISSION OF AIR CONTAMINANT: VISUAL STANDARD

(a) It shall be unlawful for any person to cause or allow the emission of any air contaminant for a period or periods aggregating more than three (3) minutes in any one hour, which is:

(1) Darker in shade than that designated as No. 2 (40% density) on the Ringelmann Chart, as published by the United States Bureau of Mines; or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in Subsection 9.03 (a) (1); provided that, 9.03 (a) (2) shall not apply to fuel burning equipment utilizing wood residue when the particulate emission from such equipment is not greater than 0.05 grain per standard cubic foot.

(b) It shall be unlawful for any person to cause or allow the emission of any air contaminant from equipment installed subsequent to the effective date of this regulation for a period or periods aggregating more than three (3) minutes in any one hour, which is darker in shade than that designated as No. 1 (20% density) on the Ringelmann Chart, as published by the United States Bureau of Mines.

(c) The only exception to 9.03 (a) and 9.03 (b) shall be as follows:

(1) When the fuel burning equipment is a power boiler, and an emission occurs which is due to conditions beyond the control of the owner or operator, the emission may be darker than as designated as No. 2 (40% density) on the Ringelmann Chart for a period of not more than fifteen (15)minutes in any one hour; provided that the operator shall take immediate action to correct the condition.

(2) In the event of periodic shutdowns, or unavoidable failure or breakdown of any equipment or device or other circumstances beyond the control of any person owning or operating such equipment, including the necessary shutdowns of smoke abatement or dust collection equipment for purposes of maintenance or repair, which tends to produce unlawful emissions of smoke, particulate or other matter, provided that the owner or operator of such equipment or process shall immediately notify the Agency of such shutdown, failure, breakdown or other circumstances, together with the pertinent facts relating thereto and a statement of the date upon which the condition will be rectified and shall also report to the Control Officer when such defect has been removed and when such periodic shutdown is over.

(d) The density or opacity of an air contaminant shall be measured at the point of its emission, except when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.

(e) This section shall not apply when the presence of uncombined water is the only reason for the failure of the emission to meet the requirements of this section.

(f) This section shall not apply to motor vehicles or aircraft.

SECTION 9.04 PARTICULATE MATTER

It shall be unlawful for any person to cause or allow the discharge of particulate matter which becomes deposited upon the real property of others, except as follows:

(1) When such emissions are proved by such person to be in compliance with Section 9.09.

(2) Temporarily due to breakdown of equipment, provided that repairs are promptly made.

(3) During the time for compliance with this Regulation fixed by the Control Officer or the Board.

SECTION 9.05 INCINERATOR BURNING

It shall be unlawful for any person to burn any combustible refuse in any incinerator within the boundaries of the Authority except in a multiple chamber incinerator as defined in Section 1.07 and provided with emission control apparatus, or in equipment found by the Control Officer in advance of such use to be equally effective for the purpose of air pollution control.

SECTION 9.06 REFUSE BURNING EQUIPMENT: TIME RESTRICTION

(a) It shall be unlawful for any person to cause or permit the operation of refuse burning equipment at any time other than daylight hours of the same day, except with the approval of the Control Officer.

(b) Approval of the Control Officer for the operation of such equipment may be granted upon the submission of a written request stating:

(1) The full name and address of the applicant; and

(2) The location of the refuse burning equipment; and

(3) A brief description of the refuse burning equipment and its control apparatus; and

(4) Good cause for the issuance of such approval; and

(5) The hours, other than daylight hours, during which the applicant seeks to operate the equipment; and

(6) The length of time for which the exception is sought.

SECTION 9.07 EMISSION OF SULFUR OXIDES

For the purpose of this Section, all sulfur present in gaseous compounds containing oxygen shall be deemed to be present as sulfur dioxide.

(a) It shall be unlawful for any person to cause or permit the emission of sulfur dioxide from any premises which will result in concentrations and frequencies at a primary air mass station, a primary ground level monitoring station, or a special station that exceed those shown in the following table:

TABLE 1

MAXIMUM ALLOWABLE SULFUR DIOXIDE CONCENTRATIONS

*Concentration	Averaging Time	Frequency of Occurrence
1.0 ppm	5 minutes	Once in any 8 consecutive hours
0.4 ppm	60 minutes	Never to be exceeded
0.25 ppm	60 minutes	Twice in any 7 consecutive days
0.10 ppm	24 hours	Never to be exceeded
0.04 ppm	30 days	Never to be exceeded
0.02 ppm	365 days	Never to be exceeded

*Parts per million by volume

Emission exceeding the limits established in this Subsection (a) shall not constitute a violation of Section 9.07, provided such emissions, from the emission point to the point of any such concentration, are on property controlled by the person responsible for such emissions.

(b) It shall be unlawful for any person to cause or permit the emission of air contaminant from equipment if the air contaminant emitted as measured in the flue contains sulfur dioxide in concentrations greater than 2,000 ppm.

Tests for determining compliance with Subsection 9.07 (b) shall be based on integrated samples collected over a period of not less than fifteen (15) consecutive minutes or ninety percent (90%) of the time of actual source operation, whichever is less.

(c) When the emission of sulfur dioxide exceeds forty (40) pounds per hour, then it shall be unlawful for any person to cause or permit equipment used in a manufacturing process to emit to the atmosphere more than 10 percent (10%) of the sulfur contained in the process weight per hour. Any person processing such sulfur-containing material shall, upon request, provide to the Agency such information and samples as may be required to determine compliance with this Section.

(d) It shall be unlawful for any person to burn, sell or make available for sale any fuel containing a weight percentage of sulfur in excess of that allowed by Subsection (2) and (3) hereof, or any fuel (which, after combustion in fuel) burning equipment or flue gas desulfurization, emits a concentration of sulfur dioxide as measured in the flue in excess of the limits set forth in Subsection (1) hereof:

(1) One-thousand ppm by volume (1,000 ppm) corrected to fifty per cent (50%) excess air.

(2) Distillate fuel classified as No. 1 domestic heating oil (ASTM Specification D-396-69) shall contain three-tenths percent (.3%) or less sulfur by weight.

(3) Distillate fuel classified as No. 2 domestic heating oil (ASTM Specification D-396-69) shall contain five-tenths percent (.5%) or less sulfur weight.

(e) (1) When used in Regulation 1:

(i) "a wholesale fuel facility" means any refinery, distribution terminal, or primary fuel handling facility which sells, makes available for sale, or distributes liquid or solid fuel on a wholesale basis for subsequent use in fuel burning equipment located in the jurisdiction of this Authority; and

(ii) "a wholesale fuel dealer" means the owner of a wholesale fuel facility.

(e) (2) Each wholesale fuel dealer shall report information to the Agency for each calendar month after the effective date of this section, as follows:

(i) the quantity, specification, seller, and percent sulfur by weight of fuel received at the wholesale fuel facility and the date of such receipt;

(ii) the method used in obtaining the sulfur content of such fuel;

(iii) other pertinent information as required by the Control Officer;

(iv) such reports to be submitted within fifteen (15) days of the end of the reporting month.

SECTION 9.09 EMISSION OF PARTICULATE MATTER: WEIGHT RATE STANDARD

It shall be unlawful for any person to cause or allow the emission of particulate matter if the emission is in violation of Section 9.03 or if the particulate matter discharged into the atmosphere from any single source exceeds the following weights at the point of discharge:

(a) (1) In refuse burning equipment, 0.20 grain for each standard cubic foot of exhaust gas, adjusted to 50 percent excess air or calculated to 12 percent carbon dioxide (exclusive of carbon dioxide from auxiliary fuel).

(2) In refuse burning equipment installed subsequent to the effective date of this Regulation, 0.10 grain for each standard cubic foot of exhaust gas, adjusted to 50 percent excess air or calculated to 12 percent carbon dioxide (exclusive of carbon dioxide from auxiliary fuel).

(b) (1) In fuel burning equipment, 0.10 grain for each standard cubic foot of exhaust gas caluclated to 12 percent carbon dioxide.

(2) In fuel burning equipment installed subsequent to the effective date of this Regulation, 0.05 grain for each standar cubic foot of exhaust gas calculated to 12 percent carbon dioxide.

(3) In fuel burning equipment utilizing wood residue, 0.20 grain for each standard cubic foot of exhaust gas, adjusted to 50 percent excess air or calculated to 12 percent carbon dioxide.

(4) In fuel burning equipment utilizing wood residue, installed subsequent to the effective date of this Regulation, 0.10 grain for each standard cubic foot of exhaust gas, adjusted to 50 percent excess air or calculated to 12 percent carbon dioxide.

(c) In equipment used in a manufacturing process, the emission weight per hour shall not exceed the amounts set forth in TABLE II, provided further that no emission in exhaust gases shall exceed the amount set forth in Section 9.09 (d).

TABLE II

Process Weight (Lb./Hr.)	Maximun Allowable Particulate Emission (Lb./Hr.)
100	0.6
300	1.2
500	1.8
700	2.2
1,000	2.8
2,000	4.1
3,000	5.4
4,000	6.5
5,000	7.6
6,000	8.6
7,000	9.5
8,000	10.4
9,000	11.2
10,000	12.0
15,000	15.8
20,000	19.2
30,000	25.2
40,000	30.5
50,000	36.0
60,000	40.0
80,000	48.0

Process Weight (lb./Hr.)	Maximum Allowable Particulate Emission (Lb./Hr.)
100,000	55.0
140,000	65.0
180,000	73.0
220,000	78.0
260,000	83.0
300,000	85.0
400,000	92.0
800,000	109.0
1,000,000	114.0
2,000,000	127.0
4,000,000	138.0
6,000,000	143.0
8,000,000	147.0
10,000,000	150.0

Where the process weight per hour is between two listed figures, such process weight and maximum allowable particulate emission per hour shall be interpolated accordingly.

(d) (1) In equipment used in a manufacturing process, 0.10 grain for each standard cubic foot of exhaust gas.

(2) In equipment used in a manufacturing process and installed subsequent to the effective date of this Regulation, 0.05 grain for each standard cubic foot of exhaust gas.

(e) (1) In all stationary or travel asphalt plants, located within the boundaries of the Agency on March 13, 1968, 0.10 grain for each standard cubic foot of exhaust gas.

(2) For all stationary or travel asphalt plants, installed within the boundaries of the Agency after March 13, 1968, 0.05 grains for each standard cubic foot of exhaust gas; provided that travel asphalt plants within the boundaries of the Agency on March 13, 1968, moving anywhere within the boundaries of the Agency, 0.10 grain per each standard cubic foot of exhaust gas; provided further that any travel asphalt plant which was within the boundaries of the Agency on March 13, 1968, and subsequently moved outside the boundaries of the Agency, and then returned within the boundaries of the Agency, 0.05 grains for each standard cubic foot of exhaust gas.

(f) Procedures for source sampling performed in connection with the standards of the Regulation for particulates and gases shall be done using current Environmental Protection Agency requirements where applicable and available, otherwise by using procedures and definitions adopted by the Board after public hearing or such procedures mutually agreed upon by the Board or the Control Officer and the equipment owner. A copy of said procedures and definitions shall be kept on file in the office of the Authority for examination by interested persons.

SECTION 9.11 EMISSION OF AIR CONTAMINANT OR WATER VAPOR: DETRIMENT TO PERSON OR PROPERTY

(a) It shall be unlawful for any person to cause or permit the emission of an air contaminant or water vapor, including an air contaminant whose emisssion is not otherwise prohibited by this Regulation, if the air contaminant or water vapor causes detriment to the health, safety or welfare of any person, or causes damage to property or business.

(b) Nothing in this Regulation shall be construed to impair any cause of action or legal remedy therefor of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

SECTION 9.12 ODOR AND NUISANCE CONTROL MEASURES

(a) Effective control apparatus and measures shall be installed and operated to reduce odor-bearing gases or particulate matter emitted into the atmosphere to a reasonable minimum.

(b) The Board or Control Officer may establish reasonable requirements that the building or equipment be closed and ventilated in such a way that all the air, gases and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.

SECTION 9.13 EMISSION OF AIR CONTAMINANT: CONCEALMENT AND MASKING RESTRICTED

(a) It shall be unlawful for any person to willfully cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate Section 9.03 through 9.12 of this Article.

(b) It shall be unlawful for any person to cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety or welfare of any person.

SECTION 9.15 PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

(a) It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent the particulate matter from becoming airborne.

(b) It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructd, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

(c) It shall be unlawful for any person to cause or permit untreated open areas located within a private lot or roadway to be maintained without taking reasonable precautions to prevent particulate matter from becoming airborne.

SECTION 9.16 REPORT OF BREAKDOWN

Emissions exceeding any of the limits established by this Regualtion as a direct result of unavoidable upset conditions or unavoidable and unforeseeable breakdown of equipment or control apparatus shall not be deemed in violation provided the following requirements are met:

(1) The upset or breakdown is immediately reported to the Agency.

(2) The person responsible shall upon the request of the Control Officer submit a full report including the known causes and the preventive measure to be taken to minimize or eliminate a re-occurrence.

SECTION 9.17 EMISSION OF NITROGEN OXIDES

It shall be unlawful for any person engaged in the manufacture of nitric acid to emit nitrogen oxides, calculated as nitrogen dioxide, which exceed the following:

(a) 5.5 pounds per ton of 100 percent nitric acid produced; or

(b) A concentration of nitrogen oxides, as measured in the flue, of 400 ppm.

ARTICLE 11

AMBIENT AIR QUALITY STANDARDS

AND

CONTROL MEASURES REQUIRED

SECTION 11.01 AIR QUALITY CONTROL MEASURES

In areas where all ambient air quality standards as set forth in Regulation I are being met, the objective of the Board is to require that the best available control technology be employed by all sources to minimize degradation of the air quality of the area. Ambient air quality standards are not to be construed to encourage degradation of existing ambient air quality. All definitions and sampling procedures shall conform to current Environmental Protection Agency requirements where applicable and availabe, otherwise by using procedures and definitions adopted by the Board after public hearing.

(a) When any of the air quality standards set forth in Regulation I are exceeded, the Control Officer or Board shall use all necessary ways and means to reduce such concentrations and to establish a time schedule so that these standards are met within the shortest reasonable time.

(b) When the Board has reason to believe that the air quality standards set forth in Regulation I may be exceeded in an area, the Board shall use all ways and means necessary to assure that such standards are met.

(c) Ways and means shall include, but not be limited to, the following:

    (1) The setting by the Board of specific emission standards, performance standards, or other source control measures more stringent than the minimum standards set forth in Article 9

of Regulation I;

(2) The application by the Board of source emission density limitations on existing and future sources of an area;

(3) The application of any or all other sections of Regulation I or powers of the Board to set time tables, enforce standards or otherwise obtain compliance with this section.

SECTION 11.03 AMBIENT AIR QUALITY STANDARDS: SUSPENDED PARTICULATE

The suspended particulate concentration in the ambient air, averaged over any twenty-four (24) hour period, shall not exceed:

(1) 60 micrograms per cubic meter of air ($60 \mu g/m^3$) annual geometric mean.

(2) 100 micrograms per cubic meter of air ($100 \mu g/m^3$) for more than fifteen (15) per cent of the samples collected in any calendar month.

(3) 150 micrograms per cubic meter of air ($150 \mu g/m^3$) not to be exceeded more than once per year.

SECTION 11.05 AIR QUALITY STANDARDS: PARTICLE FALLOUT

(a) The particle fallout rate measured at primary air mass station, ground level monitoring station, or special station shall not exceed:

  (1) Ten grams per square meter per month ($10 g/m^2/mo$) in an industrial area; or

  (2) Five grams per square meter per month ($5 g/m^2/mo$) in an industrial area if visual observations show a presence of wood waste and the volatile fraction of the sample exceeds seventy-percent (70%).

  (3) Five grams per square meter per month ($5 g/m^2/mo$) in residential areas, commercial areas; or

  (4) Three and one-half grams per square meter per month ($3.5 g/m^2/mo$) in residential and commercial areas if visual observations show the presence of wood waste and the volatile fraction of the sample exceeds seventy-percent (70%).

(b) Unless otherwise specifically indicated, all definitions, sampling procedures and other standards shall conform with Chapter 18-44-WAC, as now or hereafter amended, of the Washington State Department of Ecology.

SECTION 11.06 AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

The carbon monoxide concentration measured in the ambient air shall not exceed:

(1) 10 milligrams per cubic meter of air (10 mg/m^3) or nine parts per million (9 ppm) maximum 8-hour concentration not to be exceeded more than once per year.

(2) 40 milligrams per cubic meter of air (40 mg/m^3) or thirty-five parts per million (35 ppm) maximum one-hour concentration not to be exceeded more than once per year.

SECTION 11.07 AMBIENT AIR QUALITY STANDARDS: PHOTOCHEMICAL OXIDANTS

The photochemical oxidant concentration measured in the ambient air shall not exceed 160 micrograms per cubic meter of air (160 μg/m^3) or eight one-hundredths parts per million (0.08 ppm) maximum one-hour concentration not to be exceeded more than once per year.

SECTION 11.08 AMBIENT AIR QUALITY STANDARDS: NITROGEN DIOXIDE

The nitrogen dioxide concentration measured in the ambient air shall not exceed 100 micrograms per cubic meter of air (100 μg/m^3) or five one hundredths parts per million (0.05 ppm) annual arithmetic mean.

SECTION 11.09 AMBIENT AIR QUALITY STANDARDS: HYDROCARBONS

The hydrocarbon concentration measured in the ambient air shall not exceed 160 micrograms per cubic meter of air (160 μg/m^3) or twenty-four one hundredths parts per million (0.24 ppm) maximum 3-hour concentration not to be exceeded more than once per year.

ARTICLE 12

STANDARDS OF PERFORMANCE

SECTION 12.01 REPORTING AND MONITORING REQUIRED

As may be provided by law or regulation, the Board or Control Officer may require the owner or operator of any air contaminant source to install, use and maintain emission monitoring equipment; to sample emissions in accordance with methods prescribed by the Board or Control Officer; to establish and maintain records of emissions; and to make periodic emission reports.

REGULATION I

of the

DOUGLAS COUNTY AIR POLLUTION CONTROL COMMISSION

ARTICLE V

EMISSION STANDARDS AND PREVENTIVE MEASURES

SECTION 5.01 OPEN FIRES

It shall be unlawful for any person to ignite, cause to be ignited, permit to be ignited, suffer,alllow or maintain any open fire within the jurisdiction of the Commission, except for the following:

(1) One small fire may be permitted on the premises of one and two family dwellings for the purpose of burning natural vegetation, wood waste, and waste paper accumulated on the premises unless such fires are restricted by the Commission, muncipality, county or other authorized agency.

(2) Fires set for religious ceremonies, recreational purposes and the cooking of food for human consumption, provided no nuisance is created.

(3) Fires from flares, torches and waste gas burners.

(4) A Fire Chief, Fire Marshal or head of a local fire district may authorize a fire for:

  (a) The disposal of dangerous materials, provided no alternative means of disposal is reasonably available.

  (b) The prevention of a fire hazard, provided no alternate means of prevention is reasonably available.

  (c) Instruction in the method of fighting fires or testing of fire-resistive materials and fire-protective equipment.

(5) After January 1, 1973, commercial open burning will be permitted within one mile of any incorporated town or city only after obtaining a permit from the Commission. After July 1, 1975, no commercial open burning shall be conducted in any area of the county unless a permit has been secured from the Commission. Permits will not be issued unless the applicant can demonstrate that practical alternate methods of disposal are not available and that good combustion practice shall be followed to minimize emissions. Burning conducted under the provision of Chapter 81-12-050 WAC (Department of Natural Resources - Smoke Management Plan) is exempt from this subsection.

(6) Fires consisting of residue of a natural character such as trees, stumps, shrubbery or other natural vegetation, arising from land clearing projects or agricultural pursuits for pest or disease control, shall be allowed within the jurisdiction of the Commission; provided that a burning permit is first obtained from the fire district having jurisdiction over the land on which the fire is to to located. In the case of land not under the jurisdiction of a local fire district permits may be obtained from the office of the Douglas County Auditor in Waterville or the Douglas County Air Pollution Control office in East Wenatchee.

  (a) The Commission reserves the power to set time limits each year when burning for land clearing operations may be permitted.

  (b) The Commission reserves the power to prohibit open burning in those areas having a general population density of one thousand (1,000) or more persons per square mile.

(7) The following material shall not be burned in any open fire: tires, asphaltic products, crankcase oil or petroleum wastes, plastics, garbage, dead animals or any material that normally emits black smoke or obnoxious odors except upon order of a duly authorized health officer or agricultural disease control officer, diseased animals and other infested material may be burned as required to prevent spreading of the infestation.

(8) If if becomes apparent at any time to the Control Officer that limitations need to be imposed to reduce smoke and prevent air pollution and/or protect property and the health safety and comfort of a persons from the effects of the burning, the Board, the Control Officer or his authorized agent shall notify the permittee and any limitation so imposed shall be treated as the conditions under which the permit is issued.

REGULATION I

GRANT COUNTY CLEAN AIR AUTHORITY

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ARTICLE V

EMISSION STANDARDS AND PREVENTIVE MEASURES

SECTION 5.01 OPEN FIRES

It shall be unlawful for any person to ignite, cause to be ignited, permit to be ignited, suffer, allow or maintain any open fire within the jurisdiction of the Authority, except for the following:

(1) A small fire to last no more than 3 hours in a 24-hour period may be permitted on the premises of one and two family dwellings for the purposes of burning natural vegetation, wood waste, and waste paper accumulated on the premises unless such fires are restricted by the Authority, municipality, county or other authorized agency.

(2) Fires set for religious ceremonies, recreational purposes and the cooking of food for human consumption, provided no nuisance is created.

(3) Fires from flares, torches and waste gas burners.

(4) A Fire Chief, Fire Marshal or head of a local fire district, after notification of the Control Officer, may authorize a fire for:

  (a) The disposal of dangerous materials, provided no alternate means of disposal is reasonably available.

  (b) The prevention of a fire hazard, provided no alternate means of prevention is reasonably available.

  (c) Instruction in the method of fighting fires or testing of fire-resistive materials and fire-protective equipment.

(5) Commercial open burning will be permitted within one mile of any incorporated town or city of Grant County or in any area disignated as a no-burn area only after obtaining a permit from the Authority. After July 1, 1975, no commercial open burning shall be conducted in any area of the county unless a permit has been secured from the Authority. Permits will not be issued unless the applicant can demonstrate that practical alternate methods of disposal are not available and that good combustion practice shall be followed to minimize emissions and/or effects of emissions. Burning conducted under the provisions of Chapter 18-12-050 WAC (Department of Natural Resources - Smoke Management Plan) is exempt from this subsection.

(6) No person may use open burning for the purpose of metal salvage operations without securing a permit from the Authority.

(7) The Authority may hold public hearings to establish and set boundaries for no-burn areas. Hearings for the establishment of no-burn areas shall be conducted upon receipt of a petition from 100 residents within the affected area of the county or an incorporated community or upon a request from the governing body of any town or of the county.

(8) All agricultural burning, including burning of weeds and cereal stubble shall be prohibited except as authorized by permit from the Authority; except this restriction shall not apply to fires of one acre or less set for the purpose of destroying obnoxious weeds or crop residue along fence rows, ditches, waterways and in cultivated fields; providing that such fires shall be subject to provisions of Section 5.01, subsection (11) and that burning procedures shall be used to insure good combustion and to minimize smoke and adverse effects on air quality and that such fires are used only to dispose of natural vegetation grown at the site or transported to the site by natural means.

Permits will be issued only:

(a) When burning is necessary to control disease or insect infestation, alternate measures are not available, and the county extension agent or other recognized agricultural expert so advises, or

(b) When suitable evidence is presented that no other practical means of disposal of the material to be burned is available, or

(c) For fire prevention when alternate methods of disposal are not available; and

(d) When weather conditions are deemed suitable by the Control Officer.

(9) The following material shall not be burned in any open fire: tires, asphaltic products, crankcase oil or petroleum wastes, plastics, garbage, dead animals or any material that normally emits black smoke or abnoxious odors unless prior authorization has been granted by the Authority. Upon order of a duly authorized health officer and when authorized by the Authority, deceased animals and other infected material may be burned as required to prevent spreading of the infection.

(10) If it becomes apparent at any time to the Control Officer that limitations need to be imposed to reduce smoke and prevent air pollution and/or protect property and the health, safety and comfort of persons from the effects of the burning, the Board, the Control Officer or his authorized agent shall notify the permittee and any limitation so imposed shall be treated as conditions under which the permit is issued.

(11) No open fires shall be ignited during any stage of an air pollution episode; and any person or entity responsible for an open fire shall immediately proceed to extinguish such fire when notified of the existence of an air pollution episode. At the forecast stage, fires shall be extinguished by withholding of any additional fuel to the fires. At the alert stage, fires must be extinguished as quickly as possible by whatever means are best suited to this end.

REGULATION 1

SOUTHWEST AIR POLLUTION CONTROL AUTHORITY

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REGULATION 1

ARTICLE I

POLICY, SHORT TITLE AND DEFINITIONS

SECTION 1.01 POLICY

(a) The Southwest Air Pollution Control Authority, consisting of the counties of Clark, Cowlitz, Lewis, Skamania, and Wahkiakum, having formed pursuant to RCW 70.94 as amended, adopts the following Regulation to control the emission of air contaminants from sources within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of RCW 70.94 as amended.

(b) It is hereby declared to be the public policy of the Southwest Air Pollution Control Authority to maintain such a reasonable degree of purity of the air as will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life or to property and be consistant with the economic and industrial wellbeing of the territory of the Authority.

SECTION 1.02 NAME OF AUTHORITY

The name of the multicounty air pollution control authority comprised of the activated or inactivated air pollution control authorities of Clark County, Cowlitz County, Lewis County, Skamania County and Wahkiakum County shall be known as the "Southwest Air Pollution Control Authority".

SECTION 1.03 SHORT TITLE

This regulation may be known and cited as "Regulation 1 of the Southwest Air Pollution Control Authority".

SECTION 1.04 GENERAL DEFINITIONS:

When used in Regulation 1, of the Southwest Air Pollution Control Authority:

Agriculture Operation means the growing of crops, the raising of fowl, or animals, as a gainful occupation.

Air Contaminant means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

Air Pollution means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or is likely to be injurious to human health, plant or animal life or property, or which unreasonably interferes with enjoyment of life and property.

Ambient Air means the air that surrounds the earth excluding the general volume of gases contained within any building or structure.

Authority means the Southwest Air Pollution Control Authority.

Board means the Board of Directors of the Southwest Air Pollution Control Authority.

Combustion means the rapid exothermic reaction of any material with oxgen.

Combustible Refuse means any burnable waste material containing carbon in a free or combined state other than liquid or gases.

Emission means the act of passing into the ambient air, an air contaminant; or the material so passed to the ambient air.

Fire Department means fire control agency such as city fire departments, local fire districts or the Washington State Department of Natural Resources.

Flue means any duct or passage for air, gases or the like, such as a stack or chimney.

Garbage means refuse, animal or vegetable matter as from a kitchen, restaurant, or a store.

Incineration Operation means any operation in which burning of conbustible refuse is carried on for the principal purpose, or with the principal result, or oxidizing a waste material to reduce its bulk and or facilitate disposal.

Multi-Chamber Incinerator means any article, machine, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of a material to be burned.

Open Fire means combustion of combustible material of any type outdoors, in the open, not in any enclosure, where the products of combustion are not directed through a flue.

Operation means any physical action resulting in the change in the location, form or physical properties of a material, or any chemical action resulting in a change in the chemical composition or chemical or physical properties of a material.

Particulate Matter means any material, except uncombined water; which exists in a finely divided form as a liquid or solid at standard ambient conditions.

Person means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality or governmental agency.

Salvage Operation means any operation where burning of combustible materials is carried on for the principle purpose of the removal of salvable noncombustible material for profit.

Standard Ambient Conditions means gas temperature at 70 degrees Fahrenheit and gas pressure at 29.92 inches of mercury.

Standard Cubic Foot of Gas means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at a pressure of 14.7 P.S.I.A. and a temperature of 60 degrees F.

184

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01 CONTROL OFFICER - POWERS AND DUTIES:

(a) The Control Officer shall observe and enforce the provisions of state law and all orders, ordinances, resolutions or rules and regulations of the Authority pertaining to control and prevention of air pollution in accordance with the policies of the Board of Directors. (Section 30, of Chapter 238 - RCW 70.94.170.)

(b) Whenever the Control Officer has reason to believe that any provision of state law or any regulation relating to the control or prevention of air pollution has been violated, he may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of state law or the regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the Control Officer may require that the alleged violator or violators appear before the Board for a hearing at a time and place specified in the notice given at least fifteen days prior to such hearing and answer the charges complained of. (Section 34 of Chapter 238 - RCW 70.94.211)

(c) In place of an order or hearing, the Control Officer may, after service of a notice of violation and expiration of a reasonable period of time without correction, request the prosecuting attorney in the county where the violation occurred to prosecute a criminal action against the violator. (Section 34 of Chapter 238 - RCW 70.94.211)

(d) The Control Officer may obtain from any person subject to the jurisdiction of the Authority such information or analysis as will disclose the nature, extent, quantity or degree of air contaminants which are or may be discharged by such source, and type or nature of control equipment in use, when such information or analysis is available or reasonably capable of being assembled.

(e) The Control Officer may engage, at the Authority's expense, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity, or degree of any air contaminants which are or may be discharged from any source.

(f) For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representative shall have the power to enter at reasonable times upon any private or public property, with the permission of the owner or his duly authorized representative, or without permission if in possession of a search warrant authorizing the search of the premises.

(g) If during the course of an inspection the Control Officer or his duly authorized representative desires to obtain a sample or air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place and the Control Officer or his duly authorized representative shall give a receipt to the owner or lessee for the sample obtained.

SECTION 2.02 ORDERS AND HEARINGS:

(a) Any Order issued by the Board or by the Control Officer, which is not preceeded by a hearing, shall become final unless, no later than twenty days after the date the Notice and Order are served, the person aggrieved by the Order petitions for a hearing before the Board. Upon receipt of the petition, the Board shall hold a hearing pursuant to Chapter 34.04 RCW as now or hereinafter amended.

(b) If, after a hearing held as a result of a petition to the Authority by a person aggrieved by an order, the Board finds that a violation has occurred or is occurring, it shall affirm or modify the order previously issued, or if the finding made is that no violation has occurred or is occurring, the order shall be rescinded. If, after a hearing held in lieu of an order, the Board finds that a violation has occurred or is occurring, it shall issue an appropriate order or orders for the prevention, abatement or control of the emissions involved or for the taking of such other corrective actions as may be appropriate. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the emissions.

(c) Any hearing held under this section shall be conducted in accordance with the rules of evidence as set forth in RCW 34.04.100 as now or hereinafter amended.

SECTION 2.04 STATUS OF ORDERS ON APPEALS:

(a) Any order of the Control Officer or the Board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing, the superior court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

(b) Nothing in this regulation shall prevent the Control Officer or Board from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

SECTION 2.05 SERVICE OF NOTICE

(a) Service of any written notice required by this regulation shall be made on the owner or lessee of equipment, or his agent, as follows:

  (1) Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent at the address listed on his application or order, or registration certificate or at the address where the equipment is located, by United States Certified Mail, return receipt requested; or

  (2) By leaving the notice with the owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, with a member of the partnership or other group concerned, or with an officer or managing agent of the corporation.

(b) Service of any written notice required by this regulation shall be made on the Authority as follows:

  (1) Either by mailing the notice in a prepaid envelope direct to the Authority at its office by United States Certified Mail, return receipt requested; or

  (2) By leaving the notice at the Authority Office with an employee of the Authority.

SECTION 2.06 ADVISORY COUNCIL

The duties of the Advisory Council shall be to advise the Board of the proper type of general regulations and standards for adoption within the jurisdiction of the Authority.

All recommendations for the adoption or modification of regulations of general import or emission standards shall be submitted to the Advisory Council sufficiently in advance of any Board action on the recommendations in order that the Advisory Council might advise and consult with the Board on the recommendations.

SECTION 2.07 VARIANCES

Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who owns or controls like processes or like equipment may apply to the Board for a variance from the rules or regulations governing the quality, nature, or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The hearing held hereunder shall be conducted in accordance with the rules of evidence as set forth in RCW 34.04.100 as now or hereinafter amended. The Board may grant such variance, but only after public hearing on due notice and in conformity with RCW 70.94.181 of the 1967 Washington Clean Air Act as amended.

SECTION 2.08 SEVERABILITY

If any phrase, clause, subsection or section of this regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of Directors would have enacted this regulation without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the regulation shall not be affected as a result of said part being held unconstitutional or invalid.

SECTION 2.09 PENALTY

Any person, firm, corporation, association or public agency who violates any provision of this regulation shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars nor more than One Thousand Dollars, or by imprisonment for a term of not more than one year or by a fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

SECTION 2.10 CIVIL PENALTY

In addition to or as an alternate to any other penalty provided herein or by law, any person who violates any of the provisions of this regulation shall incur a penalty in the form of a fine in an amount not to exceed Two Hundred Fifty Dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Each act of commission or ommission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a Notice in writing from the Control Officer or his representative of the Authority describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Board. The hearing shall be conducted pursuant to the provisions of Chapter 34.04 RCW. If the amount is not paid to the Board within fifteen days after receipt of notice imposing the same, and a request for a hearing has not been made, the attorney for the Authority shall bring action to recover such penalty in the Superior Court of the County in which the violation occurred. All penalties recovered under this section shall be put into the treasury of the Authority and credited to its funds.

To secure the penalty incurred under this section, the Authority shall have a lien on any vessel used or operated in violation of this regulation which shall be enforced as provided by RCW 60.36.050.

ARTICLE III

NOTICES OF CONSTRUCTION AND ORDERS OF APPROVAL

SECTION 3.01 NOTICE OF CONSTRUCTION - WHEN REQUIRED:

(a) No person shall construct, install or establish a new air contaminant source, except those sources excluded in Section 4.08, of this regulation, without first filing with the Authority a "Notice of Construction and Application for Approval", on forms prepared and furnished by the Authority; provided that, for the purposes of this Article alterations which will have significant effect on the emission of air contaminants, shall be construed as construction or installation or establishement of a new contaminant source.

(b) A Notice of Construction and Application for Approval shall not be required to commence an alteration of equipment or control apparatus in the event of breakdown or if delaying the alteration may endanger life or have other serious consequences. The Authority shall be notified in writing of the alteration on the first working day after the alteration is commenced and a Notice of Construction and Application for Approval shall be filed within fourteen (14) days after the day the alteration is commenced.

(c) A separate Notice and Application shall be submitted for each unit of equipment or control apparatus, unless identical units of equipment or control apparatus are to be installed, constructed or established in an identical manner on the same premises; provided that, the owner has the option to give notice and apply for approval of a process with detailed inventory of contaminant sources and emission related to said process.

SECTION 3.02 INFORMATION REQUIRED FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL:

(a) Each Notice of Construction and Application for Approval for the construction, installation or establishment of a new air contaminant source, as above described, shall be accompanied by two sets of plans which show and describe the following:

(1) The equipment or control apparatus covered by the Notice and Application;

(2) Any equipment connected, attached to, or serving or served by the unit of equipment or control apparatus covered by the Notice and Application;

193

(3) A plot plan, including the distance and height of buildings within a reasonable distance from the place where the equipment is or will be installed;

(4) The proposed means for the prevention or control of the emissions of air contaminant, including sufficient information to judge the effectiveness of the control system.

(5) Additional information, evidence or documentation may be required by the Board or the Control Officer to show that the proposed equipment or control apparatus will meet the emission standards as now or hereinafter set by the Board.

(6) Each Notice of Construction and Application for Approval shall be signed by the applicant or owner, who may be required to submit evidence of his authority.

SECTION 3.03 ISSUANCE OF APPROVAL OR ORDER:

(a) Within thirty (30) days of receipt of Notice of Constuction and Application for Approval, the Board or Control Officer shall issue an Approval of Constuction, or an Order that the construction, installation or establishment of a new air contaminant source will not be in accord with the applicable emissions standards as are in effect at the time of filing the Notice of Construction and Application for Approval.

(b) No approval will be issued unless the information supplied as required by Subsection 3.02 (a) evidences to the Board or the Control Officer that:

(1) The equipment is designed and will be installed to operate without causing a violation of the emission standards.

(2) The equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the equipment.

(3) Equipment having a stack or duct 3 feet or more in diameter will be provided with:

(i) Sampling ports of a size, number and location as the Authority may require; and

(ii) Safe access to each port; and

(iii) Such other reasonable sampling and testing facilities as the

Board or Control Officer may require.

(4) Fuel burning equipment and refuse burning equipment will achieve optimum combustion of the fuel or refuse material to be burned.

(5) All parts of the equipment can be readily cleaned or repaired.

(c) If the Board or Control Officer determines that the construction, installation or establishment of a new air contaminant source will meet the emission standards, the Board or Control Officer shall, within thirty (30) days of the receipt of the Notice and Application, issue an Order for the prevention of the construction, installation or establishment of the air contaminant source or sources, and,

(1) The Order shall be in writing;

(2) The Order shall set forth the objections in detail with references to the emission standards that will not be met by the proposed construction, installation or establishment;

(3) The Order shall be signed by the Control Officer or his authorized representative.

(d) Any Order issued pursuant to this seciton shall become final unless, no later than fifteen (15) days after the date the Order is served pursuant to Section 2.05, of this regulation, the owner or applicant petitions for a reconsideration of the Order, with reasons for the reconsideration.

(1) The Board or Control Officer shall consider the petition, and shall within thirty (30) days give written notice of disapproval of the petition setting forth the reasons for disapproval.

(2) If the petition of the owner or applicant be disapproved, the owner or applicant may petition the Board for a hearing within fifteen (15) days of receipt of the notice of disapproval and proceed under the procedure as set forth in Section 2.02 and 2.03 of this regulation.

(e) Failure to issue such an order or approval within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed,provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted. Such failure, however, shall not relieve any person from his obligation to comply with any emission control requirement, or with any other provision of law.

SECTION 3.04 NOTICE OF COMPLETION - ORDER OF VIOLATION:

(a) The owner or applicant shall notify the Board or Control Officer of the completion of construction, installation or establishment and the date upon which operation will commence. The Board or Control Officer shall, within thirty (30) days of receipt of notice of completion, inspect the construction, installation or establishment, and the Board or Control Officer may issue an Order of Violation if he finds that the construction, installation or establishment is not in accord with the plans, specifications or other information submitted to the Authority, and will be in violation of the emission standards in existence at the date the order was issued.

(b) Upon receipt of an Order of Violation, the owner may appeal said order in accordance with the provisions and procedures in Section 2.02, 2.03 and 2.04 of this regulation.

(c) The issuance of approval as provided by this Article and Section 3.03 shall not relieve the owner of the obligation to comply with the emission standards as adopted by this Authority, or prevent the Board or Control Officer from issuing such orders as provided by Section 2.01, of Article 2, of this regulation.

SECTION 3.05 CONDITIONAL APPROVAL:

The owner or applicant may request a conditional approval for an experimental installation, construction or establishment and said approval may be issued by the Board or Control Officer if it appears to the Board or Control Officer, from all submitted information, that the installation, construction or establishment when completed will satisfy the emission standards adopted by the Board.

SECTION 3.06 WAIVER OF APPROVAL PRIOR TO CONSTRUCTION:

(a) In the event that requirement for approval prior to construction will create an undue hardship to the applicant, the applicant may request of the Board a waiver to proceed with construction. The application for a waiver shall explain the circumstances which will cause such undue hardship.

(b) If a waiver is granted, the applicant shall submit a report and/or plans and specifications for approval as soon as is reasonably practical.

(c) The applicant, after a waiver is granted, proceeds with construction at his own risk; and if after construction, modification, relocation or installation has begun or been completed, the report and/or plans and specifications do not meet the Board's approval, the alterations required to effect such approval shall be made within a reasonable time as specified by the Board.

ARTICLE IV

EMISSIONS PROHIBITED

SECTION 4.01 OPEN FIRES:

No person shall ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any open fire within the jurisdiction of the Authority, except as provided in this Regulation.

(a) The following fires are excepted from provisions of this regulation:

   (1) Fires set only for recreational purposes and cooking of food for human consumption, provided no nuisance is created.

   (2) Any fire specifically exempt under Section 42, of Chapter 238, RCW 70.94.250.

(b) Open burning may be done under permit:

   (1) Application for burning permits shall be on forms provided by the local fire department.

   (2) No permit shall be issued unless the Control Officer is satisfied that:

      (i) No practical alternate method is available for the disposal of the material to be burned.

      (ii) No salvage operation by open burning will be conducted.

      (iii) No garbage will be burned.

      (iv) No dead animals will be disposed of by burning.

      (v) No material containing asphalt, petroleum products, paints, rubber products, plastic or any substance which normally emits dense smoke or obnoxious odors will be burned.

   (3) Any permit issued may be limited by the imposition of conditions to:

      (i) Prevent air pollution.

      (ii) Protect property and the health, safety and comfort from the effects of the burning.

(4) If it becomes apparent at any time to the Control Officer that limitations need to be imposed for any of the reasons stated in Subsection (3) above, the Control Officer, or his duly designated agent shall notify the permittee and any limitation so imposed shall be treated as conditions under which the permit is issued.

(c) Fires started in violation of this regulation shall be extinguished by the persons responsible for the same upon notice of the Control Officer or his duly designated agent. When the Control Officer has knowledge of adverse conditions for the dispersement of the by-products of combustion, an air pollution alert may be declared voiding all permits for open fires.

(d) It shall be (prima facia) evidence that the person who owns or controls property on which an open fire.prohibited by this regulation, occurs has caused or allowed said open fire.

SECTION 4.02 VISUAL EMISSIONS:

(a) No person shall allow, cause, let, permit, or suffer the emission, for more than three minutes in any hour, of a gas stream containing air contaminants which is:

(1) Darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines or;

(2) Of such opacity as to obscure an observers view to a degree equal to or greater than smoke shade No. 2 described above.

(b) When the gas stream is an emission from a boiler using hogfuel, and an emission occurs which is due to conditions beyond the control of the operator, the emission may be darker than that designated as No. 2 but not as dark as that designated as No. 3 on the Ringelmann Chart for a period of not more than six minutes in any one hour; provided that the operator shall take immediate action to correct the situation.

(c) No person shall allow, cause, let, permit or suffer the emission, for more than three minutes in any one hour, of any air contaminant darker in shade as that designated as No. 1 on the Ringelmann Chart, from equipment other than boilers using hogfuel, installed subsequent to the effective date of this regulation. Such equipment shall not include air pollution control equipment or alterations and repairs to existing facilities.

(d) Where the presence of uncombined water is the only reason for the failure of an emission to meet the limitations of subsection (a) (2), that section shall not apply. The burden of proof which establishes this subsection (d) shall be upon the person seeking to come within its provisions.

(e) Subsections (a, b and c) shall not apply to any emission on the basis of any observation of an air contaminant observed while such contaminant is inside a bonafide building.

(f) The person taking the observation shall be a trained observer.

(g) No person shall allow, cause, let, permit or suffer the emission, of incandescent particles of such size and nature as to be visible individually as incandescent particles in sufficient number to cause annoyance to any other person. This subsection (g) shall only apply if such particles fall on real property other than that of the person responsible for the emission.

(h) Exceptions are as follows:

  (1) Temporarily due to breakdown of equipment, provided that repairs are promptly made.

  (2) During the time for compliance with this regulation fixed by the Control Officer or the Board.

    (i) Subsections (a, b and c) of section 4.02 shall not apply to any emission containing 0.2 grains or less particulate matter per standard cubic foot of gas.

SECTION 4.03 INCINERATOR BURNING:

No person shall allow any incineration operation within the Authority's jurisdiction except in a multi-chamber incinerator and provided with emission control apparatus, or in equipment found by the Control Officer, or his designated agent, in advance of such use to be equally effective for the purpose of air pollution control under this regulation.

SECTION 4.04 INCINERATION HOURS:

(a) No person shall cause, allow, let, permit or suffer the operation of an incinerator at any time other than daylight hours of the same day, except with approval of the Control Officer.

(b) Approval of the Control Officer for the operation of such equipment may be granted upon the submission of a written request giving:

   (1) The name and address of the applicant.

   (2) The location of the incinerator.

   (3) A description of the incinerator and its control apparatus.

   (4) Good cause for issuance of such approval.

   (5) The hours, other than daylight hours, during which the applicant seeks to operate the equipment.

   (6) The length of time for which the exception is sought.

SECTION 4.05 ODOR CONTROL MEASURES:

(a) Effective control apparatus and equipment shall be installed and operated to reduce odor-bearing gases or particulate matter emitted into the atmosphere to a reasonable minimum, so as not to create air pollution.

(b) The Board may establish reasonable requirements that the building or equipment be closed and ventilated in such a way that all the air, gases, and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the ambient air.

SECTION 4.06 PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE:

(a) No person shall cause, let, allow, permit or suffer particulate matter to be handled, transported, or stored without taking reasonable precautions to prevent air pollution.

(b) No person shall cause, let, allow, permit or suffer a building or its appurtenances or a road to be constructed, altered, repaired or demolished without taking reasonable precautions to prevent air pollution.

(c) No person shall cause, let, allow, permit, or suffer untreated open areas located within a lot or roadway to be maintained without taking reasonable precautions to prevent air pollution.

SECTION 4.07 REPORT OF BREAKDOWN:

Emissions exceeding the limits set by this regulation as a direct result of unavoidable upset conditions or unavoidable and unforeseeable breakdown of equipment or control apparatus shall not be deemed in violation provided that:

(1) The upset or breakdown is reported to the Authority as soon as possible.

(2) The person responsible shall upon the request of the Control Officer make a full report outlining the known causes and the preventive measures to be taken to minimize or prevent a reoccurrence.

SECTION 4.08 EXCEPTIONS:

The following equipment is excepted from this regulation:

(1) Vehicles used to transport passengers or freight.

(2) Fuel burning equipment used exclusively in connection with any structure which structure is designed for and used exclusively as a dwelling for not more than four families.

(3) Equipment used exclusively for space heating other than boilers.

(4) Internal combustion engines.

REGULATION 2

ARTICLE I

POLICY, SHORT TITLE AND DEFINITIONS

SECTION 1.01 POLICY

(a) The Southwest Air Pollution Control Authority, consisting of the Countries of Clark, Cowlitz, Lewis, Skamania, and Wahkiakum, having formed pursuant to RCW 70.94 as amended, adopts the following Regulation to control emission of air contaminants from source within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of RCW 70.94 as amended.

(b) It is hereby declared to be the public policy of the Southwest Air Pollution Control Authority to maintain such a reasonable degree of purity of the air as will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life or to property and be consistent with the economic and industrial wellbeing of the territory of the Authority.

SECTION 1.02 NAME OF AUTHORITY:

The name of the multicounty air pollution control authority comprised of the activated or inactivated air pollution control authorities of Clark County, Cowlitz County, Lewis County, Skamania County and Wahkiakum County shall be known as the "Southwest Air Pollution Control Authority".

Section 1.03 SHORT TITLE:

This Regulation may be known and cited as "Regulation 2 of the Southwest Air Pollution Control Authority".

SECTION 1.04 GENERAL DEFINITIONS:

When used in Regulation 2 of the Southwest Air Pollution Control Authority:

Air Contaminant means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

Air Pollution means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant, or animal life, or property; or which unreasonably interferes with enjoyment of life and property.

Ambient Air means the air that surrounds the earth excluding the general volume of gases contained within any building or structure.

Ambient Air Standard means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

Authority means the Southwest Air Pollution Control Authority.

Board means the Board of Directors of the Southwest Air Pollution Control Authority.

Control Apparatus means any equipment which has the primary function of regulation or controlling the emisssions from a process, fuel burning, or refuse burning equipment and thus reduces the formation of or the emission of air contaminants into the atmosphere, or both.

Emission means the act of passing into the ambient air, an air contaminant; or the material so passed.

Emission Standard means limitation on the release of a contaminant or multiple contaminants to the ambient air.

Fuel Burning Equipment means any equipment, device, or contrivance used for the burning of any fuel, and all appurtenances thereto, including ducts, breechings, control equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substances to the products of combustion.

Month means for reporting analyses of outdoor air on a monthly rate, calculated to a base of thirty days.

Odor means that property of a substance which allows its detection by the sense of smell.

Particle Fallout Rate means the amount of particulate matter by weight which settles out of the air per unit area in a given length of time.

Particulate Matter means any material, except uncombined water; which exists in a finely divided form as a liquid or solid at standard ambient conditions.

Persons means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality or governmental agency.

ppm means (Parts Per Million) parts of a contaminant per million parts of air by volume.

Primary Air Mass Station means a type of station designed to measure contamination in an air mass, to represent a relatively broad area.

Primary Ground Level Monitoring Station means stations designed to provide information on contaminant concentrations near the ground and provide data valid for the immediate area only.

Process Equipment means any equipment or device for changing, storing, or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc.

Process Weight means total weight of the materials consumed or charged in any specific process including moisture content and solid fuels charged, but excluding liquid and gaseous fuels and combustion air.

Refuse Burning Equipment means any article, machine, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning.

Sampling means a process consisting of the withdrawal or isolation of a fractional part of a whole. In air or gas analysis, the separation of a portion of stack emissions or an ambient atmosphere with or without the simultaneous isolation of selected components.

Standard Ambient Conditions means the gas temperature at 70 degrees Farenheit and gas pressure at 29.92 inches of mercury.

Standard Cubic Foot of Gas means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 P.S.I.A. and a temperature of 60° degrees F.

Suspended Particulates means those airborne particulates collected on 8" x 10" sheets of flash-fired glass fiber filter web of given porosity using a high-volume air sampler.

Volatile Matter means the gaseous constituent of a solid or a liquid, released at specific temperatures.

ARTICLE II

GENERAL PROVISIONS, SEVERABILITY AND PENALTY

SECTION 2.01 GENERAL PROVISIONS:

The general provisions cited in Sections 2.01, 2.02, 2.03, 2.04, 2.05, 2.06 and 2.07 of Regulation 1 shall apply to Regulation 2.

SECTION 2.02 SEVERABILITY:

If any phrase, clause, subsection or section of this Regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of Directors would have enacted this Regulation without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the Regulation shall not be affected as a result of said part being held unconstitutional or invalid.

SECTION 2.03 PENALTY:

Any person, firm, corporation, association or public agency who violates any provision of this Regulation shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars nor more than One Thousand Dollars, or by imprisonment for a term of not more than one year or by fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

SECTION 2.04 CIVIL PENALTY:

In addition to or as an alternate to any other penalty provided herein or by law, any person who violates any of the provisions of this Regulation shall incur a penalty in the form of a fine in an amount not to exceed Two Hundred Fifty Dollars per day for each violation. Each such violation shall be separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a Notice in writing from the Control Officer or his representative of the Authority describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Board. The hearing shall be conducted pursuant to the provisions of Chapter 34.04 RCW. If the amount is not paid to the Board within fifteen days after receipt of Notice imposing the same, and a request for a hearing has not been made, the attorney for the Authority shall bring action to recover such penalty in the Superior Court of the county in which the violation occurred. All penalties recovered under this section shall be put into the treasury of the Authority and credited to its funds.

To secure the penalty incurred under this section, the Authority shall have a lien on any vessel used or operated in violation of this Regulation which shall be enforced as provided by RCW 60.36.050.

SECTION 2.05 CONFIDENTIAL INFORMATION:

Whenever any records or other information furnished to or obtained by the Authority relate to processes or production unique to the owner or operator, or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies such records or information shall be only for the confidential use of the Authority. No member of the Board of Directors shall have access to any confidential information in which he may, in the opinion of the Board, have a conflict of interest.

SECTION 2.06 EXCLUSION:

When a specific regulation controlling a particular type or class of air contaminant source has been adopted on a statewide basis by the Washington State Air Pollution Control Board, such source or sources shall be excluded from this Regulation.

ARTICLE III

REGISTRATION

SECTION 3.01 REGISTRATION REQUIRED:

All air contaminant sources and related control apparatus within the jurisdiction of the Authority shall be registered with the Authority upon request.

SECTION 3.02 GENERAL REQUIREMENTS FOR REGISTRATION:

(a) Registration of an air contaminant source and related control apparatus shall be made by the owner or lessee of the source, or his agent, on forms furnished by the Authority.

(b) A separate registration shall be required for each air contaminant source; provided that, an owner has the option to register a process with a detailed inventory of air contaminant sources and emissions related to the process; provided further that, an owner need not make a separate registration for identical units of equipment or control apparatus installed, altered, or operated in an identical manner on the same premises.

(c) Each registration shall be signed by the owner or lessee, or his agent. The owner of the source shall be responsible for the registration and the correctness of the information submitted.

SECTION 3.03 AIR CONTAMINANT SOURCES EXCLUDED:

The following air contaminant sources are excluded from the requirements of Section 3.01:

(a) Internal combustion engines.

(b) Fuel burning equipment used exclusively in connection with any structure, which structure is designed for and used exclusively as a dwelling for not more than four families.

(c) Equipment used exclusively for space heating other than boilers.

(d) Vehicles used to transport passengers or freight.

ARTICLE IV

AMBIENT AIR STANDARDS

SECTION 4.01 INTRODUCTION:

Ambient air standards as established by the Authority shall be used in determining the effectiveness of the emission standards adopted in Article V of Regulation 2. When an ambient air standard is exceeded the Authority shall evaluate the related emission standard and make any needed changes in the emission standards.

SECTION 4.02 SULFUR DIOXIDE:

Sulfur dioxide concentrations in the ambient air, measured at a primary ground level monitoring station, shall not exceed:

Concentration Parts Per Million By Volume	Averaging Time	Frequency of Occurrence
0.75 ppm	15 minutes	Once in any 8 hour period.
0.5 ppm	1 hour	Once in any 4 consecutive days.
0.1 ppm	24 hours	Once in any 30 consecutive days.
0.05 ppm	30 days	Unlimited.

SECTION 4.03 PARTICULATE MATTER:

(a) Suspended particulate concentrations in the ambient air measured at a primary air mass station shall not exceed:

  (1) Seventy micrograms per cubic meter for more than fifty percent (50%) of the samples taken in any calendar year.

  (2) One hundred micrograms per cubic meter for more than fifteen percent (15%) of the samples in any calendar month.

(b) The particle fallout concentrations measured at any station shall not exceed:

  (1) Ten grams per square meter per month in an industrial area provided that if visual observation shows a presence of wood waste and the volatile fraction of the sample exceeds seventy percent (70%) the level shall not exceed five grams per square meter per month.

  (2) Five grams per square meter per month in residential and commercial areas provided that if visual observations show a presence of wood waste and the volatile fraction of the sample exceeds seventy percent (70%) the level shall not exceed three and one-half grams per square meter per month.

ARTICLE V

EMISSION STANDARDS

SECTION 5.01 EMISSION OF SULFUR DIOXIDE:

(a) No person shall allow, cause, let, permit, or suffer the emission of an air contaminant from any source, except as provided in this Regulation, which contains, as measured in the stack, gaseous sulfur compounds containing oxygen, calculated as sulfur dioxide, of more than 1500 parts per million by volume.

Tests for determining compliance with Section 5.01 (a) shall be based on integrated samples collected over a period of not less than fifteen (15) consecutive minutes or ninty percent (90%) of the actual source operation, whichever is less.

(b) Emissions of gaseous compounds containing oxygen, calculated as sulfur dioxide, which exceed 1500 parts per million by volume shall not be in violation of this Regulation provided that:

(1) Such emissions shall not result in ambient concentrations exceeding the limits established by Section 4.02 of this Regulation.

(2) The person responsible for such emission shall notify the Authority in writing, prior to such emission, of his intent to operate under provisions of Subsection (b). Such notice shall include information as to the location of all significant emission points, the location of the primary ground level monitoring stations required by this Subsection (b), and a description of the operations related to each such emission.

(3) The person responsible for the emission shall establish at least three primary ground level monitoring stations in the area surrounding the source, equipped with continuous sulfur dioxide recorders and operated in a manner approved by the Board or Control Officer.

(4) The person responsible for the emissions shall provide to the Authority a summary of the data obtained at these stations during each calendar month. The summary shall be in such detail as will show the degree of compliance with Section 4.02 and the time, location, extent, and duration of any recorded concentration in excess of the provisions of Section 4.02.

Included in the summary must be a detailed report of instrument performance and maintenance. The report shall be submitted within the calendar month immediately succeeding the recording of the data.

(5) The person responsible for the emission shall keep for a period of at least one year all records gathered as a result of this Subsection (b) and shall make it available to the Authority at its request.

(6) Instrument records shall be examined at intervals no greater than every seven days to determine compliance with Section 4.02. Any recorded concentrations in excess of Section 4.02 shall be reported to the Authority within the next normal working day after such examination.

(7) Whenever the records indicate that concentrations in excess of Section 4.02 have occurred, the person responsible for the emission shall furnish such evidence that proper action has been taken to prevent recurrence, or a violation of Section 5.01 (b) will be deemed to have occurred and the source will be regulated by Section 5.01 (a). When instrument records are not adequate to show compliance with Section 4.02 the Authority may specify the Schedule to be followed for producing a satisfactory record history.

(c) In fuel burning equipment, emissions of gaseous sulfur compounds containing oxygen, calculated as sulfur dioxide, of more than 1500 parts per million but less than 2000 parts per million by volume shall not be in violation of this Regulation when required to use a secondary energy source.

SECTION 5.02 EMISSION OF PARTICULATE MATTER:

No person shall discharge from any single source particulate matter which exceeds the following concentrations at the point of discharge:

(a) In fuel or refuse burning equipment 0.10 grain for each standard cubic foot of exhaust gas calculated to twelve percent (12%) carbon dioxide.

(b) In fuel burning equipment utilizing hog-fuel 0.20 grain for each standard cubic foot of exhaust gas calculated to twelve percent (12%) carbon dioxide.

(c) In fuel burning equipment utilizing natural gas as primary energy source, 0.30 grain for each standard cubic foot of exhaust gas calculated to twelve percent (12%) carbon dioxide when required to use a secondary energy source.

(d) In equipment used in a manufacturing process, 0.10 grain for each standard cubic foot of exhaust gas.

(e) In hot mix asphalt plants dust or condensed fumes in excess of 40 pounds per hour.

(f) The requirements of Section 5.02 shall be measured by the methods for dust reporting apparatus as in current use as outlined in the Code for dust separating apparatus of the American Society of Mechanical Engineers or in accordance with modified procedures mutually agreed upon by the equipment owner and the Authority. A copy of said Code shall be kept on file in the Office of the Authority.

SECTION 5.03 EMISSION OF ODOROUS GASES:

(a) No person shall allow, cause, let, permit or suffer the emission of odorous gases from any source, except as provided in this Regulation, in such concentration as to cause a public nuisance or exceed:

(1) A scentometer No. 0 odor strength or equivalent dilution in residential and commercial areas.

(2) A scentometer No. 2 odor strength or equivalent dilution in all other land use areas.

SCENTOMETER READINGS

Scentometer No.	Concentration Range No. of Thresholds
0	>1 to <2
1	>2 to <8
2	>8 to <32
3	>32 to <128
4	>128

(b) A violation of Section 5.03 shall have occurred when two measurements made within a period of one hour, separated by at least 15 minutes, off the property surrounding the air contaminant source exceeds the limitations of Subsection (a).

(c) When the source is a manufacturing process no violation of Subsection (a) shall have occurred provided that the highest and best practicable treatment and control currently available shall be provided in order to maintain the lowest possible emission of odorous gases.

SECTION 5.04 EMISSION OF FLUORIDES:

(a) No person shall cause, let, permit or suffer the emission of elemental or chemically combined fluorine which, when combined with emissions of other sources, cause the following standards to be exceeded.

1) In forage, the fluoride content calculated on a dry weight basis:

Concentration Fluoride ion (F^-) Parts Per Million	Frequency Of Occurrence
40 ppm F^-	Yearly average of monthly samples.
60 ppm F^-	No more than two consecutive monthly samples.
80 ppm F^-	No more than one month in two consecutive months.

(2) In the ambient air, gaseous fluoride calculated as hydrogen fluoride by volume:

Concentration Parts Per Billion	Frequency of Occurrence
4.5 ppb	Average for 12 consecutive hours.
3.5 ppb	Average for 24 consecutive hours.
2.0 ppb	Average for 7 consecutive days.
1.0 ppb	Average for 30 consecutive days.

(b) All sampling and analysis required by Section 5.04 shall be accomplished following the standard methods established by the Washington State Air Pollution Control Board. All sampling to measure compliance with Section 5.04 shall be conducted in areas and during time appropriate to protect vegetation and livestock away from the property controlled by the air contaminant source.

SECTION 5.05 CONCEALMENT AND MASKING OF AIR CONTAMINANTS:

(a) No person shall willfully allow, cause, let, permit or suffer the installation or use of any device or use any other means, which without resulting in a reduction in the total amount of air contaminant emitted, conceals an omission of an air contaminant which would otherwise violate Section 5.01 through 5.04 of this Article, without written consent of the Control Officer.

(b) No person shall allow, cause, let, permit or suffer the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety or welfare of any person.

SECTION 5.06 TIME FOR COMPLIANCE:

(a) Air contaminant sources, within the jurisdiction of the Authority, existing at the time of adoption of this Regulation shall have a reasonable time for compliance.

(b) A Schedule of Compliance shall be submitted to the Board for approval upon request such that the source will be under a Schedule of Compliance within 90 days of the date of request.

(c) The Schedule of Compliance shall include each of the following:

(1) Time for engineering.

(2) Time for procurement.

(3) Time for fabrication.

(4) Time for installation and adjustment.

(d) The Authority may require such periodic reports on each phase of progress toward compliance as may be necessary to show reasonable progress toward compliance. Failure at any phase to make reasonable progress toward completion of such installations as are required for final compliance shall be deemed an unreasonable delay in compliance. The Authority may require that the person responsible appear before the Board to explain the delay and show cause why abatement action should not be started.

SECTION 5.07 REPORT OF BREAKDOWN:

Emissions exceeding the limits set by this Regulation as a direct result of unavoidable upset conditions or unavoidable and unforseeable breakdown of equipment of control apparatus shall not be deemed in violation provided that:

(a) The upset or breakdown is reported to the Authority as soon as possible.

(b) The person responsible shall upon the request of the Control Officer make a full report outlining the known causes and the preventive measures to be taken to minimize or prevent a recurrence.

SECTION 5.08 BREACH OF AGREEMENT TO DISCONTINUE VIOLATION:

When the Board has accepted an assurance of discontinuance of any act or practice deemed in violation of this Regulation from any person engaging in, or who has engaged in, such act or practice, and such assurance did specify a time limit during which such discontinuance was to be accomplished; failure to perform the terms of such agreement shall constitute prima facie proof of a violation of this Regulation.

SECTION 5.09 EXCEPTION:

When a specific regulation controlling emissions from a source or source category has been established within the Authority's jurisdictional area, those sources shall be excepted from compliance to Sections 5.01 through 5.08 of this Regulation.

REGULATION 1

OLYMPIC AIR POLLUTION CONTROL AUTHORITY

ARTICLE 1

POLICY, SHORT TITLE AND DEFINITIONS

SECTION 1.01 POLICY

The Olympic Air Pollution Control Authority, consisting of the counties of Clallam, Grays Harbor, Jefferson, Mason, Pacific, and Thurston, having formed pursuant to Chapter 70.94 RCW, as amended, adopts the following Regulation to control the emission of air contaminants from sources within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to administer the requirements and purposes of Chapter 70.94 RCW, as amended.

It is hereby declared to be the public policy of the Olympic Air Pollution Control Authority to secure and maintain such levels of air quality as will protect human health and safety; and, to the greatest degree practicable, prevent injury to plant and animal life and to property; and be consistent with the social, economic and industrial well-being of the territory of the Authority.

SECTION 1.03 NAME OF AUTHORITY

The name of the multicounty air pollution control authority comprised of the activated or inactivated air pollution control authorities of Clallam County, Grays Harbor County, Jefferson County, Mason County, Pacific County, and Thurston County shall be known and cited as the "Olympic Air Pollution Control Authority."

SECTION 1.05 SHORT TITLE

This Regulation may be known and cited as "Regulation 1 of the Olympic Air Pollution Control Authority."

SECTION 1.07 DEFINITIONS

When used in regulations of the Olympic Air Pollution Control Authority, the following definitions shall apply:

Agricultural Operation means the growing of crops, the raising of fowl or animals as a gainful occupation.

Air Contaminant means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

Air Pollution means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, property, or which unreasonably interferes with enjoyment of life and property.

Alteration means any addition to or enlargment or replacement; or any major modification or change of the design, capacity, process or arrangement; or any increase in the connected loading of equipment or control facility which will significantly increase or adversely affect the kind or amount of air contaminant emitted.

Authority means the Olympic Air Pollution Control Authority.

Board means the Board of Directors of the Olympic Air Pollution Control Authority.

Combustible Refuse means any burnable waste material containing carbon in a free or combined state other than liquid or gases.

Control Apparatus means any device which prevents or controls the emission of any air contaminant.

Control Officer means the Air Pollution Control Officer of the Olympic Air Pollution Control Authority.

Daylight Hours means the hours between official sunrise and official sunset.

Emission means a release into the outdoor atmosphere of air contaminants.

Emission Point means the location (place in horizontal plane and vertical elevation) at which an emission enters the atmosphere.

Equipment means any stationary or portable device, or any part thereof, capable of causing the emission of any air contaminant into the atmosphere.

Fire Chief means a County Fire Marshal, City Fire Chief, Chief of each County Fire Protection District or his authorized representative, or authorized forestry officials from the Washington State Department of Natural Resources.

Fuel Burning Equipment means any equipment, device or contrivance used for the burning of any fuel, and all appurtenances thereto, including ducts, breechings, control equipment, fuel feeding equipment, ash removal equipment, combustion controls, stacks, chimneys, etc., used for indirect heating in which the material being heated is not contacted by and adds no substances to the products of combustion.

Garbage means refuse, animal or vegetable matter as from a kitchen, restaurant or store.

Hog-Fuel means wood slabs, edgings, trimmings, etc., which have been put through a "hog" to reduce them to a uniform small size, and also includes shavings from planing mills, sawdust from saw-kerfs, bits of bark, chips and other small recovered products from the manufacture of wood products or any combination thereof.

Identical Units means units installed and operated in a similar manner on the same premises provided the materials handled, processed, or burned are substantially the same in composition and quantity and their design, mode of operation, connected devices and types and quantitites of discharge are substantially the same.

Incineration Operation means any operation in which burning of combustible refuse occurs for the principal purpose, or with the principal result, of oxidizing a waste material to reduce its bulk and/or facilitate disposal.

Incinerator means a furnace for the destruction of waste.

Multiple-Chamber Incinerator means any article, machine, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three or more refractory-lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of a material to be burned.

Opacity means the degree to which an emission reduces the transmission of light and obscures the view of an object in the background.

Open Fire means a fire where any material is burned in the open or in a receptacle other than furnace, incinerator or kiln.

Owner means and includes the person who owns, leases, supervises or operates the equipment or control apparatus.

Particulate Matter means any liquid, other than water, or any solid which is so finely divided as to be capable of becoming windblown or being suspended in air or other gas or vapor.

Person means and includes any individual, firm, public or private corporation, association, partnership, politcal subdivision, municipality or governmental agency.

Refuse means waste as defined in Section 1.07 of this Regulation.

Refuse Burning Equipment means equipment designed to burn refuse, rubbish or waste material.

Regulation means any regulation, or any subsequently adopted additions or amendments thereto, of the Olympic Air Pollution Control Authority.

Ringelmann Smoke Chart means the Ringelmann Smoke Chart with instruction for use, as published by the United States Bureau of Mines. (Information Circular 8833).

Rubbish means waste as defined in Section 1.07 of this Regulation.

Salvage Operation means any operation conducted in whole or in part for the salvaging or reclaiming of any product.

Stack means duct, chimney, flue or conduit arranged for the emission into the outdoor atmosphere of air contaminants.

Standard Ambient Conditions means gas temperature at 60 degrees Fahrenheit and gas pressure at 29.92 inches of mercury.

Standard Cubic Foot of Gas means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at a pressure of 14.7 P.S.I.A. and a temperature of 60 degrees F.

State Act means the Washington Clean Air Act, Chapter 70.94 RCW, as amended.

Waste means unproductive, worthless, useless or rejected material.

ARTICLE 3

GENERAL PROVISIONS

SECTION 3.01 CONTROL OFFICER - POWERS AND DUTIES

(a) The Control Officer shall observe and enforce the provisions of state law and all orders, ordinances, resolutions or rules and regulations of the Authority pertaining to control and prevention of air pollution in accordance with the policies of the Board of Directors.

(b) Whenever the Control Officer has reason to believe that any provision of state law or any regulation relating to the control or prevention of air pollution has been violated, he may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of state law or the regulation alleged to be violated and the facts alleged to constitute a violation thereof and may include an order that necessary corrective action be taken within a specified time. In lieu of an order, the Control Officer may require that the alleged violator or violators appear before the Board for a hearing, at a time and place specified in the notice, given at least twenty (20) days prior to such hearing, and answer the charges.

(c) The Control Officer and/or his qualified agents may make any investigation or study which is necessary for the purpose of enforcing this Regulation or any amendment thereto or controlling or reducing the amount or kind of air contaminant.

(d) The Control Officer may obtain from any person subject to the jurisdiction of the Authority such information or analysis as will disclose the nature, extent, quantity or degree of air contaminants which are or may be discharged by such source and type or nature of control equipment in use.

(e) For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representative shall have the power to enter upon any private or public property, with the permission of the owner or his duly authorized representative.

(f) If during the course of an inspection, the Control Officer or his duly authorized representative desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place; and the Control Officer or his duly authorized representative shall give a receipt to the owner or lessee for the sample obtained.

(g) The Control Officer may engage, at the Authority's expense and with Board approval, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from any source.

SECTION 3.03 CONFIDENTIAL INFORMATION

Whenever any records or other information furnished to or obtained by the Authority, pursuant to any sections in Chapter 70.94 RCW, relate to processes or production unique to the owner or operator or are likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Authority.

SECTION 3.05 INTERFERENCE OR OBSTRUCTION

No person shall willfully interfere with or obstruct the Control Officer or any Authority employee in performing any lawful duty.

SECTION 3.07 FALSE OR MISLEADING STATEMENTS

No person shall willfully make a false or misleading statement to the Board or its representative as to any matter within the jurisdiction of the Board.

SECTION 3.09 UNLAWFUL REPRODUCTION OR ALTERATION OF DOCUMENTS

No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate or other paper issued by the Authority if the purpose of such reproduction or alteration is to evade or violate any provision of this Regulation or any other law.

SECTION 3.11 DISPLAY OF ORDERS, CERTIFICATES AND OTHER NOTICES: REMOVAL OR MUTILATION PROHIBITED

(a) Any order or registration certificate required to be obtained by this

Regulation shall be available on the premises designated on the order or certificate.

(b) In the event that the Authority requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board or the Control Officer.

SECTION 3.13 ORDERS AND HEARINGS

Repealed by Resolution No. 18, adopted by the Board of Directors on March 3, 1971.

SECTION 3.15 APPOINTMENT OF HEARING OFFICER

(a) In all instances where the Board is permitted or required to hold hearings under the provisions of Chapter 70.94 RCW, such hearings shall be held before the Board; or the Board may appoint a hearing officer, who shall be an attorney admitted to practice in the state.

(b) A duly appointed hearing officer shall have all the powers, rights and duties of the Board relating to the conduct of hearings.

(c) At the conclusion of a hearing at which he has presided, the hearing officer shall prepare written findings of fact and conclusions of law and a recommended decision. Parties to the proceeding shall be notified of the proposed decision as provided in RCW 34.04.110 through 34.04.120, as now or hereafter amended.

SECTION 3.17 APPEALS FROM BOARD ORDERS

Any order issued by the Board or the Control Officer, with or without a hearing, shall become final, unless, no later than thirty (30) days after the order or decision of the Pollution Control Authority or Control Officer was communicated to the appealing party, an appeal is taken to the Pollution Control Hearings Board of the State of Washington, pursuant to RCW 43.21B and WAC 371.08, as now or hereafter amended.

SECTION 3.19 STATUS OF ORDERS ON APPEALS

(a) Any order of the Control Officer or the Board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein unless, after notice and hearing, the superior court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendancy of such hearing or appeal.

(b) Nothing in this Regulation shall prevent the Control Officer or Board from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

SECTION 3.21 SERVICE OF NOTICE

(a) Service of any written notice required by this Regulation shall be made on the owner or lessee of equipment, or his agent, as follows:

(1) Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent, at the address listed on his application or order, or registration certificate or at the address where the equipment is located, by United States Certified Mail, return receipt requested; or

(2) By leaving the notice with the owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, with a member of the partnership or other group concerned, or with an officer or managing agent of the corporation.

(b) Service of any written notice required by this Regulation shall be made on the Authority, as follows:

(1) Either by mailing the notice in a prepaid envelope direct to the Authority at its office by United States Certified Mail, return receipt requested; or

(2) By leaving the notice at the Authority office with an employee of the Authority.

SECTION 3.23 VARIANCES

Any person who owns or is in control of any plant, building, structure, establishment, process or equipment may apply to the Control Officer or the Board for a variance to exceed a specific maximum emission standard of this Regulation for a limited period of time. The application shall be accompanied by such information and data as the Control Officer or Board may require. The Board may grant such variance but only after public hearing or due notice and in accordance with the provisions set forth in RCW 70.94.181, as now or hereafter amended. Any hearing held pursuant to this section shall be conducted in accordance with the rules of evidence as set forth in RCW 34.04.100, as now or hereafter amended.

SECTION 3.25 SEVERABILITY

If any phrase, clause, subsection or section of this Regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of Directors would have enacted this Regulation without the phrase, clause, subsection or section so held unconstitutional or invalid; and the remainder of the Regulation shall not be affected as a result of said part being held unconstitutional or invalid.

SECTION 3.27 PENALTY

(a) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of the rules, regulations, resolutions or ordinances of the Authority shall incur a penalty in the form of a fine in an amount not to exceed two hundred fifty dollars per day for each violation. Each such violation shall be a separate and distinct offense; and, in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

(b) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority describing the violation with reasonable particularity and advising such person that the penalty is due unless an appeal is taken from the imposition of said penalty pursuant to Section 3.17 of this Regulation. If the amount of such penalty is not paid to the Board within thirty (30) days after receipt of notice imposing the same, and a request for a hearing has not been made, the attorney for the Authority shall bring an action to recover such penalty in the superior court of the county in which the violation occurred. All penalties recovered under this section by the Authority shall be paid into the treasury of the Authority and credited to its funds.

(c) To secure the penalty incurred under this section, the Authority shall have a lien on any marine vessel and any portable equipment used or operated in violation of this Regulation which shall be enforced as provided in RCW 60.36.050.

ARTICLE 5

REGISTRATION

SECTION 5.01 REGISTRATION REQUIRED

All air contaminant sources within the jurisdiction of the Authority except the sources listed in Exhibit A, which is attached hereto and made a part hereof, as now constituted or as hereafter amended, shall be registered with the Authority.

SECTION 5.03 GENERAL REQUIREMENTS FOR REGISTRATION

(a) Registration of an installation shall be made by the owner or lessee of the source, or his agent, within thirty (30) days of receipt of forms provided by the Authority. The owner of the source shall be responsible for registration and the accuracy of the information submitted.

(b) A separate registration shall be required for each source of contaminant: PROVIDED, that an owner has the option to register a process with a detailed inventory of contaminant sources and emissions related to said process: PROVIDED FURTHER, that an owner need not make a separate registration for identical units of equipment or control apparatus installed, altered or operated in an identical manner on the same premises.

(c) Each registration shall be signed by the owner or lessee or the agent for such owner or lessee.

EXHIBIT A

EXCLUSIONS ADOPTED BY THE BOARD AND ATTACHED AS ADDENDUM

(1) Air conditioning or ventilating systems not designed to remove contaminant generated by or released from equipment.

(2) Atmosphere generators used in connection with metal heat treating processes.

(3) Blast cleaning equipment which uses a suspension of abrasive in liquid water.

(4) Foundry sand mold forming equipment, unheated.

(5) Fuel burning equipment which:

  (i) Is used solely for a private dwelling serving four familes or less; or

(ii) Has a BTU input of not more than 400,000 BTU per hour.

(6) Fumigation vaults.

(7) Insecticide spray equipment, non-commercial.

(8) Internal combustion engines, including gas turbine and jet engines.

(9) Laboratory equipment used exclusively for chemical or physical analyses.

(10) Laundry driers, extractors or tumblers used exclusively for the removal of water from fabric.

(11) Routing, turning, carving, cutting and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics.

(12) Surface coating by use of aqueous solution or suspension.

(13) Steam cleaning equipment used exclusively for that purpose.

(14) Storage tanks, reservoirs or containers:

(i) Of a capacity of 6,000 gallons or less used for organic solvents, diluents or thinners.

(ii) Of a capacity of 40,000 gallons or less used for liquid fuels including gasoline, lubricating oil, tallow, vegetable oil or wax emulsions.

(15) Vacuum cleaning systems used exclusively for office or residential housekeeping.

(16) Vacuum producing devices used in laboratory operations and vacuum producing devices which do not remove or convey air contaminants from or to another source.

(17) Vents used exclusively for:

(i) Sanitary or storm drainage systems; or

(ii) Safety valves; or

(iii) Storage tanks.

(18) Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

(19) Water cooling towers and cooling ponds except for barometric condensers.

(20) Welding, brazing or soldering equipment.

(21) Asphalt laying equipment.

ARTICLE 7

NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL

SECTION 7.01 NOTICE OF CONSTRUCTION

(a) No person shall construct, install or establish a new air contaminant source, except those sources listed in Exhibit A of Article 5 of this Regulation without first filing with the Authority a "Notice of Construction and Application for Approval," on forms prepared and provided by the Authority: PROVIDED, that for the purposes of this Article, addition to or enlargement or replacement of an air contaminant source, or any alteration thereto, shall be construed as construction, installation or establishment of a new air contaminant source.

(b) A Notice of Construction and Application for Approval shall not be required to begin an alteration of equipment or control apparatus if delaying the alteration may endanger life or the supplying of essential services. The Authority shall be notified in writing of the alteration on the first working day after the alteration is commenced, and a Notice of Construction and Application for Approval shall be filed within fourteen (14) days after the day the alteration is commenced.

(c) A separate Notice and Application shall be submitted for each unit of equipment or control apparatus, unless identical units of equipment or control apparatus are to be installed, constructed or established in an identical manner on the same premises: PROVIDED, that the owner has the option to give notice and apply for approval of a process with a detailed inventory of contaminant sources and emissions related to said process.

(d) Each Notice of Construction and Application for Approval shall be signed by the applicant or owner, who may be required to submit evidence of his authority.

SECTION 7.03 ADDITIONAL INFORMATION - WHEN REQUIRED

(a) The Control Officer or the Board may require, as a condition precedent to the construction, installation or establishment of a new air contaminant source or sources, the submission of plans, drawings, data, specifications and such other information as is deemed necessary in order to determine whether the equipment or control apparatus is designed and will be installed to operate without causing a violation of any law or regulation of the Authority.

(b) After approval to construct, install or establish a new air contaminant source or control facility is granted, deviations from the approved plans, drawings, data and specifications are not permissible without first securing written approval for the changes from the Control Officer or his authorized representative.

SECTION 7.05 ISSUANCE OF APPROVAL OR ORDER

(a) Within sixty (60) days of receipt of Notice of Construction and Application for Approval, the Board or Control Officer shall issue an Approval of Construction or an Order that the construction, installation or establishment of a new air contaminant source will not be in accord with the applicable emissions standards as are in effect at the time of filing the Notice of Construction and Application for Approval.

(b) No approval will be issued unless the information required by Section 7.03 evidences to the Control Officer or the Board that:

(1) The equipment or control apparatus is designed and will be installed to operate without causing a violation of any law or regulation of the Authority.

(2) Upon request of the Control Officer or Board, equipment or control apparatus having a stack three (3) feet or more in diameter is provided with:

(i) Sampling ports of a size, number and location as the Authority may require; and

(ii) Safe access to each port; and

(iii) Such other sampling and testing facilities as the Control Officer or Board may require.

(c) If the Board or Control Officer determines that the construction, installation or establishment of a new air contaminant source or sources will not comply with all laws or regualtions of the Authority, the Board or Control Officer shall within sixty (60) days of the receipt fo the Notice and Application issue an Order for the prevention of the construction, installation or establishment of the air contaminant source or sources; and

(1) The Order shall be in writing;

(2) The Order shall set forth the objections in detail with reference to the specific law or section or sections of the Regulation that will not be met by the proposed construction, installation or establishment;

(3) The Order shall be signed by the Control Officer or his authorized representative.

(d) Any Order issued pursuant to this section shall become final unless, no later than twenty (20) days after the date the Order is served pursuant to Section 3.21 of this Regulation, the owner or applicant petitions for a reconsideration of the Order, stating reasons for the reconsideration.

(1) The Board or Control Officer shall consider the petition and shall within thirty (30) days give written notice of approval or disapproval of the petition, setting forth the reasons for disapproval.

(2) If the petition of the owner or applicant is disapproved, the owner or applicant may appeal to the Pollution Control Hearings Board of the State of Washington, pursuant to Section 3.17 of this Regulation.

(e) Failure to issue such an order or approval within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted. Such failure, however, shall not relieve any person from his obligation to comply with any emission control requirement or with any other provision of law.

SECTION 7.07 NOTICE OF COMPLETION - ORDER OF VIOLATION

(a) The owner or applicant shall notify the Board or Control Officer of the completion of construction, installation or establishment and the date upon which operation will commence. The Board or Control Officer shall, within thirty (30) days of receipt of notice of completion, inspect the construction, installation or establishment; and the Board or Control Officer may issue an Order of Violation if he finds that the construction, installation or establishment is not in accord with the plans, specifications or other information submitted to the Authority and will be in violation of a law or regulation of the Authority in existence at the date the order was issued.

(b) Upon receipt of an Order of Violation, the owner may appeal said order in accordance with the provisions and procedures in Section 3.17 and 3.19 of this Regulation.

(c) The issuance of approval as provided by this Article and Section 7.05 shall not relieve the owner of the obligation to comply with the laws or regulations as adopted by this Authority or prevent the Board or Control Officer from issuing such orders as provided by Section 3.01, subsection (b) of Article 3 of this Regulation.

SECTION 7.09 CONDITIONAL APPROVAL

The owner or applicant may request a conditional approval for an experimental installation, construction or establishment and said approval may be issued by the Board or Control Officer if it appears to the Board or Control Officer, from all submitted information, that the installation, construction or establishment when completed will satisfy the emissions standards adopted by the Board.

ARTICLE 9

EMISSION PROHIBITED

SECTION 9.01 OPEN FIRES

(a) No person shall cause or allow any open fire within the jurisdiction of the Authority except as follows:

(1) Fires for recreation purposes, cooking of food, Indian campfires, or the sending of smoke signals for a religious ritual.

(2) Fires set for the disposal of waste upon premises of private dwellings housing four familes or less, subject however, to the following restrictions.

(i) There shall be one fire only, and it shall not exceed four (4) feet in diameter.

(ii) The material may be burned only if it is of a location, nature and condition to burn without emitting smoke darker in shade than No. 3 on the Ringelmann Chart or offensive odors or creating a nuisance.

(iii) There shall be compliance with all laws and regulations of other governmental agencies regarding such fires.

(3) Fires from flares, torches and waste gas burners.

(4) Any fire allowed under this section is subject to the following:

(i) No salvage operation by open burning will be conducted.

(ii) No garbage will be burned.

(iii) No dead animals will be disposed of by burning.

(iv) No material containing asphalt, petroleum products, paints, rubber products, plastic or any substance which normally emits dense smoke or obnoxious odors will be burned.

(b) Open burning other than the above exceptions may be conducted only by permit from the Control Officer or his duly designated agent.

Such permits shall be issued when the Control Officer, or his duly designated agent, is satisfied that:

(1) No practical alternate method is available for the disposal of the material to be burned. Due consideration shall be given to economic factors and the location at which the material is to be burned.

(2) No salvage operation by open burning will be conducted.

(3) No garbage will be burned.

(4) No dead animals will be disposed of by burning.

(5) No material containing asphalt, petroleum products, paints, rubber products, plastic or any substance which normally emits dense smoke or obnoxious odors will be burned.

(c) Any permit issued may be limited by the imposition of conditions to prevent air pollution as defined in Article 1 of this Regulation. If it becomes apparent at any time to the Control Officer that the limitations need to be imposed, the Control Officer, or his duly designated agent, shall notify the permittee; and any limitations so imposed shall be treated as conditions under which the permit is issued.

(d) Fires started in violation of this Regulation shall be extinguished by the persons responsible for the same upon notice of the Control Officer or his duly designated agent. When the Control Officer has knowledge of adverse conditions for the dispersement of the by-products of combustion, an air pollution alert may be declared voiding all permits for open fires.

(e) It shall be prima facie evidence that the person who own or controls property on which an open fire, prohibited by this Regulation, occurs has caused or allowed said open fire.

(f) Firemen Training: The Control Officer, or his duly authorized agent. may allow, by permit, an open fire necessary for firemen training (other than forest fire training) by a legally authorized fire control agency and may authorize the burning of petroleum products by such permit.

(g) No person shall cause or allow any open fire.

(1) Containing garbage, dead animals, petroleum products, paints, rubber products, plastics, or any substance which normally emits dense smoke or obnoxious odors, except as provided for in Section 9.01 (f).

(2) During a forecast, alert, warning or emergency condition as defined in RCW 70.94.715 - State Episode Avoidance Plan.

(3) In any area which has been designated by the Board or Control Officer as an area exceeding or threatening to exceed state or federal ambient air quality standards or, after July 1, 1975, state ambient air quality goals for suspended particulate described in Chapter 18-40 WAC, which is by this reference incorporated herein.

SECTION 9.03 VISUAL EMISSIONS

(a) In equipment or facilities, including boilers using hog-fuel, installed on or before the effective date of this Regulation, with subsequent alterations and repairs thereto, no person shall cause or allow the emission to the outdoor atmosphere, for more than three (3) minutes in any one hour, of a gas stream containing air contaminants which is darker in shade that that designated as No. 2 (40% density) on the Ringelmann Smoke Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree greater than smoke shade No. 2, described above.

(b) In equipment or facilities, excluding boilers using hog-fuel, installed subsequent to the effective date of this Regulation, no person shall cause or allow the emission to the outdoor atmosphere for more than three (3) minutes in any one hour of any air contaminant darker in shade than that designated as No. 1 (20% density) on the Ringelmann Smoke Chart or of such opacity as to obscure an observer's view to a degree greater than smoke shade No. 1, described above.

(c) No person shall cause or allow the emission of particles of such size and nature as to be visible individually in sufficient number to cause annoyance to any other person. This restriction shall apply only if such particles fall on real property other than that of the person responsible for the emission.

(d) Observations shall be made by trained observers or by instrumentation.

(e) The only exceptions to Section 9.03 of this Regulation are as follows:

  (1) When the gas stream is an emission from a boiler using hog-fuel, and an emission occurs which is due to unplanned and unintentional combustion conditions, the emission may be darker than that designated as No. 2 (40% density) but not as dark as that designated as No. 3 (60% density) on the Ringelmann Smoke Chart for a period of not more than six (6) minutes in any one hour: PROVIDED, that the operator shall take immediate action to correct the situation.

  (2) For purposes of necessary soot blowing, the emission may be darker than the above limits for a period of not more than fifteen (15) minutes or three (3) minutes per boiler, whichever is less, in any 8 hour period.

  (3) Where the presence of uncombined water is the only reason for the failure of an emission to meet the limitations of this section, those limits shall not apply. The burden of proof in this case shall be upon the person seeking to operate within the provisions of this section.

  (4) The limits of this section shall not apply during the time for compliance with this Regulation fixed by the Control Officer of the Board.

SECTION 9.05 PARTICULATE MATTER

(a) No person shall cause or allow the emission to the outdoor atmosphere of particulate matter in violation of Section 9.03.

(b) In equipment or facilities installed on or before the effective date of this Regulation, with subsequent alterations and repairs thereto, no person shall cause or allow the emission of particulate matter to the outdoor atmosphere from any single source, in excess of 0.20 grains per standard cubic foot of gas (calculated to 12 percent carbon dioxide if emission is from a combustion process; and in the case of incineration, corrected for the use of auxiliary fuel).

(c) In equipment or facilities (except boilers using hog-fuel) installed subsequently to the effective date of this Regulation, no person shall cause or allow the emission of particulate matter to the outdoor atmosphere from any single source in excess of 0.10 grains per standard cubic foot of gas (calculated to 12 percent carbon dioxide if emission is from a combustion process; and, in the case of incineration, corrected for the use of auxiliary fuel). In boilers using hog-fuel installed after December 3, 1969, no person shall cause or allow the emission of particulate matter to the outdoor atmosphere in excess of 0.20 grains per standard cubic foot of gas (calculated to 12 percent carbon dioxide), provided, however, that when uncombined water causes opacity in excess of twenty percent (number one on the Ringelmann Smoke Chart) the owner or operator of the source must supply valid data to show that the concentration of particulate matter, as shown by a source test approved by the Control Officer,is less than 0.10 grains per standard cubic foot.

(d) No person shall cause or allow particulate matter to be handled, loaded, transported, unloaded or stored without taking precautions to prevent air pollution.

(e) No person shall cause or allow any construction, alteration, repair, maintenance or demolition work without taking precautions to prevent air pollution.

SECTION 9.07 INCINERATION OPERATION

No person shall cause or allow any incineration operation within the Authority's jurisdiction except in a multiple chamber incinerator and provide with emission control apparatus or in equipment found by the Control Officer or his duly designated agent, in advance of such use to be equally effective for the purpose of air pollution control.

SECTION 9.09 INCINERATION HOURS

(a) No person shall cause or allow an incineration operation at any time other than daylight hours of the same day, except with approval of the Control Officer.

(b) Approval of the Control Officer for an incineration operation may be granted upon the submission of a written request stating:

(1) The name and address of the applicant.

(2) The location of the incinerator.

(3) A description of the incinerator and its control apparatus.

(4) Valid reason for issuance of such approval.

(5) The hours, other than daylight hours, during which the applicant seeks to operate the equipment.

(6) The length of time for which the exception is sought.

SECTION 9.11 ODOR CONTROL MEASURES

(a) Effective control apparatus and equipment shall be installed and operated to reduce odor-bearing gases or particulate matter emitted into the atmosphere to a minimum, so as not to create air pollution.

(b) The Board may establish requirements that the building or equipment be closed and ventilated in such a way that all the air, gases and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the outdoor atmosphere.

SECTION 9.13 EMISSION OF AIR CONTAMINANT - CONCEALMENT AND MASKING

(a) No person shall cause or allow the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted,conceals an emission of air contaminant which would otherwise violate Sections 9.03 throught 9.11 and Section 9.19 of this Regulation.

(b) No person shall cause or allow the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety or welfare of any person.

SECTION 9.15 REPORT OF BREAKDOWN

Emissions exceeding the limits set by this Regulation as a direct result of unavoidable, unforeseeable upset conditions and/or breakdown of equipment or control apparatus shall be reported to the Authority within 24 hours. The person responsible shall take immediate action to correct the problem and, upon request of the Control Officer, make a complete report outlining the known causes and the preventive measures to be taken to minimize or prevent recurrence.

SECTION 9.17 EXCEPTIONS

Repealed by Resolution No. 20, adopted by the Board of Directors on October 6, 1971.

SECTION 9.19 EMISSION OF SULFUR COMPOUNDS

(a) No person shall cause or allow the emission of sulfur dioxide from any premises which will result in concentrations and frequencies at ground level that exceed those shown in the following table:

TABLE I

MAXIMUM ALLOWABLE SULFUR DIOXIDE

GROUND-LEVEL CONCENTRATIONS

Concentration*	Averaging Time	Frequency of Occurrence
0.75 ppm	15 Minutes	Once in any 8-hour period
0.40 ppm	1 Hour	Once in any 4 consecutive days
0.10 ppm	24 Hours	Once in any 30 consecutive days

*parts per million by volume

Emissions exceeding the limits established in this subsection (a) shall not constitute a violation of Section 9.19 of this Regulation provided such emissions, form the emission point to the point of any such concentration, are on property controlled by the person responsible for such emissions.

(b) No person shall cause or allow the emission of air contaminant if the air contaminant, as measured in the stack, contains oxidized sulfur compounds, calculated as sulfur dioxide, of more than 1,500 parts per million. For the purpose of this section, all gaseous sulfur compounds containing oxygen shall be deemed to be present as sulfur dioxide.

Tests for determing compliance with Section 9.19 (b) of this Regulation shall be based on integrated samples collected over a period of not less than fifteen (15) consecutive minutes or 90 percent of the time of actual source operation, whichever is less.

(c) Emissions of sulfur compounds calculated to be in excess of 1,500 parts per million of sulfur dioxide at any emission point shall not constitute a violation of Section 9.19 (b) of this Regulation, provided such person responsible for the emissions provides evidence that such emissions will not cause ground-level concentrations on adjacent property to exceed the values indicated in Section 9.19 (a) of this Regulation.

SECTION 9.21 FLUORIDES

(a) The following standards shall apply to forage:

   (1) After sampling on a monthly basis, the yearly average fluoride content of the forage should not exceed 40 ppm fluoride ion (ppm F), on a dry weight basis, or exceed 60 ppm F for more than two (2) consecutive months or exceed 80 ppm F for more than one (1) month.

   (2) In areas where cattle are not grazed continually but are fed cured forage, as hay, for part of the year, the flurode content of this hay shall be used as the forage fluoride content for as many months as it is fed to establish the yearly average. Computation of the yearly average shall take into consideration periods when cattle may have been grazed outside the area.

(3) Inasmuch as the standards set forth in paragraph (1) are intended to protect livestock, all forage samples analyzed to determine compliance with such standards shall be representative of forage actually consumed by livestock in the area. Also, in determining compliance in particular cases, consideration shall be given to the supplemental feed of the livestock involved.

(b) The following standards shall apply to the outdoor atmosphere:

TABLE II

MAXIMUM ALLOWABLE FLUORIDE*

GROUND-LEVEL CONCENTRATIONS

Concentration**	Averaging Time
4.5 ppb	12 consecutive hours
3.5 ppb	24 consecutive hours
2.0 ppb	1 calendar week
1.0 ppb	1 calendar month

* as gaseous fluorides calculated as HF

** parts per billion by volume

REGULATION I

YAKIMA COUNTY CLEAN AIR AUTHORITY

YAKIMA COUNTY CLEAN AIR AUTHORITY

REGULATION I

WHEREAS, the Yakima County Clean Air Authority was created pursuant to the provisions of the Washington Clean Air Act, RCW 70,94; and,

WHEREAS, pursuant to the provisions of said Washington Clean Air Act the Board of Directors of the Yakima County Clean Air Authority is empowered to adopt, amend and repeal its own ordinances, resolutions or rules and regulations, as the case may be, implementing the provisions of RCW 70.94; and,

WHEREAS, these regulations are necessary for the health, safety and welfare of the people of Yakima County; now, therefore,

The Board of Directors of the Yakima County Clean Air Authority hereby adopt the following rules and regulations.

ARTICLE I

POLICY, SHORT TITLE & DEFINITIONS

SECTION 1.01 POLICY

It is declared to be the public policy of the Yakima County Clean Air Authority to secure and maintain such levels of air quality as will protect human health and safety; and to the greatest degree practical, prevent injury to plant and animal life and property, foster the comfort and convenience of the inhabitants of Yakima County, to promote the economic and social development of Yakima County and facilitate the enjoyment of the natural attractions therein.

SECTION 1.02 SHORT TITLE

These rules and regulations shall be known and cited as "Regulation I of the Yakima County Clean Air Authority".

SECTION 1.03 DEFINITIONS

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in these regulations shall have the following meanings:

Agricultural Operation - The growing of crops, the raising of fowl, animals or bees as a gainful occupation.

Air Contaminant - Dust, fumes, mist, smoke, other particulate matter, vapor, gas odorous substance, or any combination thereof.

Air Pollution - Presence in the outdoor atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property.

Ambient Air - The air that surrounds the earth excluding the general volume of gases contained within any building or structure.

Authority - The Yakima County Clean Air Authority.

Board - The Board of Directors of the Yakima County Clean Air Authority.

Control Apparatus - Any device which prevents or controls the emission of any air contaminant.

Control Officer - The Air Pollution Control Officer of the Yakima County Clean Air Authority, or his duly authorized agents.

Combustible Refuse - Any burnable waste material containing carbon in a free or combined state other than liquid or gases.

Domestic Refuse - Refuse, exclusive of garbage at a property used exclusively as a private residence or dwelling for not more than three (3) families.

Emission - The act of releasing into the atmosphere an air contaminant or gas stream which contains or may contain an air contaminant; or the material released to the atmosphere.

Equipment - Any stationary or portable device or any part thereof capable of causing the emission of any air contaminant into the ambient air.

Excess Air - The quantity of air which exceeds the theoretical quantity of air required for complete combustion.

Fire Chief - The chief of any fire department, or his duly authorized agent.

Flue - Any duct or passage for air, gases or the like, such as a stack or chimney.

Fog - A visible aerosol in which the dispersed phase is liquid. Formation by condensation is usually implied, in meteorology as a dispersion of water or ice.

Garbage - Includes putrescible animal and vegetable wastes resulting from handling, preparation, cooking and serving food.

Hearings Board - Hearings Board created by Chapter ______ (ESB No. 1) Laws of 1970 1st. ex. sess.

Incinerator - A furnace for the destruction of waste, or oxidizing a waste to facilitate disposal.

Mist - A dispersion of liquid particles, the dispersion being of low concentration and the particle of large size. In meteorology, a light dispersion of water droplets of sufficient size to fall.

Multiple Chamber Incinerator - Any incinerator consisting of three or or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

Open Fire - A fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.

Owner - Includes the person who leases, supervises or operates the equipment or control apparatus.

Particle - A small discrete mass of solid or liquid matter. (general size range from submicron to 2000 micron).

Person - Person means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality or governmental agency.

Regulation - Any regulation and subsequently adopted additions or amendments thereto of the Regulations of the Yakima County Clean Air Authority.

Salvage Operation - An operation conducted in whole, or in part, for the salvaging or reclaiming of any product or material.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01 CAUSING OR PERMITTING AIR POLLUTION UNLAWFUL- EXCEPTION

Except where specified in a variance permit, as provided herein, it shall be unlawful for any person knowingly to cause air pollution or knowingly permit it to be caused in violation of these rules and regulations.

SECTION 2.02 CONTROL OFFICER - POWERS AND DUTIES

(1) The Control Officer shall observe and enforce the provisions of State Law and all orders, ordinances, resolutions or rules and regulations of the Authority pertaining to control and prevention of air pollution.

(2) The Control Officer or his duly authorized agent may make any reasonable investigation or study which is necessary for the purpose of enforcing this regulation or any amendment hereto or controlling or reducing the amount of or kind of air contaminant. The Control Officer shall be required to maintain appropriate records and prepare periodic reports to the Board.

(3) For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer, or his duly authorized representative, shall have the power to enter at reasonable times upon any private or public property, excepting non-multiple unit private dwellings housing three families, or less. No person shall refuse entry or access to the Control Officer or his duly authorized representatives who request entry for the purpose of inspection, and who present appropriate credentials; nor shall any person obstruct, hamper or interfere with such inspection.

(4) If an authorized employee of the Authority, during the course of an inspection, desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place and the authorized employee of the Authority shall give a receipt to the owner or lessee for the sample obtained.

SECTION 2.03 MISCELLANEOUS PROVISIONS

(1) No person shall willfully make a false or misleading oral statement to the Board as to any matter within the jurisdiction of the Board.

(2) No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate, or other paper issued by the Authority if the purpose of such reproduction or alteration is to evade or violate any provision of this Regulation or any other law.

(3) Any order, or registration certificate required to be obtained by this Regulation, shall be available on the premises designated on the order or certificate.

(4) In the event that the Authority requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board.

SECTION 2.04 CONFIDENTIALITY OF RECORDS AND INFORMATION

Whenever any records or other information furnished to or obtained by the Board pursuant to this regulation relate to processes or production unique to the owner or operator, or is likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall by only for the confidential use of the State Board or Board. Nothing herein shall be construed to prevent the use of records or information by the State Board or Board in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere: Provided, that such analyses or summaries do not reveal any information otherwise confidential as to the provisions of this section.

SECTION 2.05 ADVISORY COUNCIL

The duties of the Advisory Council shall be to advise and consult with the Board and to advise and consult with the Control Officer in effectuating the purposes of this Regulation. All recommendations for the adoption or modification of regulations or emission standards shall be submitted to the Advisory Council sufficiently in advance of any Board action on the recommendations in order that the Advisory Council might advise and consult with the Board, and the Control Officer, on the recommendations.

ARTICLE III

VIOLATIONS - ORDERS AND HEARINGS

SECTION 3.01 NOTICE OF VIOLATION - CORRECTIVE ACTION - HEARINGS

Whenever the Board or the Control Officer has reason to believe that any provision of these regulations has been violated, the Board or Control Officer may cause written notice to be served upon the alleged violator or violators. The Notice shall specify the provision of these regulations alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the Board or the Control Officer may require that the alleged violator or violators appear before the Hearings Board as provided for in Chapter ______ ESB No. 1) Laws of 1970 1 st ex. sess. for a hearing pursuant to the provisions of Chapter 34.04 RCW as now or hereafter amended.

SECTION 3.02 FINALITY OR ORDER - APPEAL

Any order issued by the Board or by the Control Officer shall become final unless, such order is appealed to the Hearings Board as provided in Chapter ______ (ESB No. 1) Laws of 1970, 1st. ex. sess.

SECTION 3.03 STAY OR ORDER PENDING APPEAL

Any order of the Control Officer or Board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing, the Superior Court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

SECTION 3.04 VOLUNTARY COMPLIANCE

Nothing in this chapter shall prevent the Control Officer or Board from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

ARTICLE IV

REGISTRATION AND NOTICE OF CONSTRUCTION

SECTION 4.01 REGISTRATION

(1) All air contaminant sources within the jurisdiction of the Authority shall be registered with the Authority as hereafter set forth except any of the air contaminant sources which are listed in Section 4.03.

(2) Registration of an installation shall be made by the owner or lessee of the source, or his agent at such time as requested by the Control Officer or his agent on forms furnished by the Authority. The owner or lessee of the source shall be responsible for registration and the correctness of the information submitted.

(3) A separate registration shall be required for each source of contaminant: Provided, that an owner, or lessee, has the option to register a process with a detailed inventory of contaminant sources and emissions related to said process; and Provided further that an owner need not make a separate registration for identical units of equipment or control apparatus installed, altered or operated in an identical manner on the same premises.

(4) Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee.

SECTION 4.02 NOTICE OF CONSTRUCTION

(1) No person shall construct, install or establish a new air contaminant source, except those sources excluded in Section 4.03 of this Regulation, without first filing with the Authority a "Notice of Construction, Installation or Establishment of New Air Contaminant Source", on forms prepared and furnished by the Authority.

(2) Within thirty (30) days of its receipt of such notice, the Board or Control Officer may require, as a condition precedent to the construction, installation or establishment of the air contaminant source or sources covered thereby the submission of plans, specifications, and such other information as it deems necessary in order to determine whether the proposed construction, installation or establishment will be in accord with these rules and regulations.

(3) If within thirty (30) days of the receipt of plans, specifications or other information required pursuant to this section, the Board or Control Officer determines that the proposed construction, installation or establishment will not be in accord with this chapter or the applicable ordinances, resolutions, rules and regulations adopted pursuant thereto, it shall issue an order for the prevention of the construction, installation or establishment of the air contaminant source or sources. Failure of such order to issue within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted.

(4) For the purpose of this chapter, addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction, installation or establishment of a new air contaminant source.

(5) Nothing in this section shall be construed to authorize the Board or Control Officer to require the use of emission control equipment or other equipment, machinery or devices of any particular type, from any particular supplier, or produced by any particular manufacturer.

(6) Any features, machines, and devices constituting parts or called for by plans, specifications or other information submitted pursuant to Sub-Section (3) hereof shall be maintained in good working order.

(7) The absence of an ordinance, resolution, rule or regulation, or the failure to issue an order pursuant to this section shall not relieve any person from his obligation to comply with any emission control requirements or with any other provision of law.

(8) Notice of Completion - Order of Violation

The owner or applicant shall notify the Board or Control Officer of the completion of construction, installation or establishment and the date upon which operation will commence. The Board or Control Officer may, within thirty days of receipt of notice of completion inspect the construction, installation, or establishment, and the Board or Control Officer may issue an Order of Violation if he finds that the construction, installation, or establishment is not in accord with the plans, specifications or other information submitted to the Authority, and will be in violation of the emission standards in existence at the date the order was issued.

SECTION 4.03 ORCHARD HEATERS

It shall be the duty of all persons, firms or corporations engaged in the business of selling orchard heating devices to report to the Control Officer the sale of such devices to be installed or used anywhere within the jurisdiction of the Yakima County Clean Air Authority and it shall be the duty of every person, firm or corporation purchasing any of said articles at the time of making such purchase to give to the seller a statement in writing signed by such purchaser or his duly authorized agent, setting forth a description of the devices and the correct location of the property at which such devices are to be installed or used.

The report herein provided for shall be in writing and be delivered or mailed to the Control Officer within ten days after such sale and shall contain name and address of purchaser and location of the property at which said devices are to be installed or used.

Any person violating any of the provisions of this section or making any false statement or report in connection with the sale of any such articles mentioned in this section, shall be subject to the fine and penalties hereafter provided.

The provisions of this section shall not apply to wholesale transactions made for the purpose of resale.

Compliance with the terms of this section shall constitute notices of construction as required in Section 4.02.

SECTION 4.04 EXCEPTIONS TO ARTICLE IV

Neither registration nor notice of construction shall be required for the following air contaminant sources:

(1) Air conditioning or ventilating systems not designed to remove contaminant generated by or released from equipment.

(2) Blast cleaning equipment which uses a suspension of abrasive in liquid water.

(3) Fuel burning equipment:

  (a) Is used solely for a private dwelling serving three families or less; or

  (b) Smoke house generators, provided no nuisance is created.

(4) Fumigation vaults.

(5) Insecticide and herbicide spray equipment.

(6) Internal combustion engines, including gas turbine and jet engines.

(7) Laboratory equipment used exclusively for chemical or physical analysis.

(8) Laundry driers, extractors or tumblers used exclusively for the removal of water from fabric.

(9) Routing, turning, carving, cutting and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics.

(10) Surface coating by use of aqueous solution or suspension.

(11) Steam cleaning equipment used exclusively for that purpose.

(12) Vacuum producing devices used in laboratory operations, and vacuum producing devices which do not remove or convey air contaminant from or to another source.

(13) Vents used exclusively for:

  (a) Sanitary or storm drainage systems; or

  (b) Safety valves; or

  (c) Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

ARTICLE V

EMISSION STANDARDS AND PREVENTIVE MEASURES

SECTION 5.01 OPEN FIRES

(1) It shall be unlawful for any person to ignite, cause or permit to be ignited or to suffer, allow or maintain any open fire within the jurisdiction of the Authority, except as provided in Section 6.02, and in addition thereto, it shall be unlawful and not within any of the exemptions of Section 6.02 for any person to ignite, cause, permit or suffer to be ignited or allow or maintain any open fire within the jurisdiction of the Authority as follows:

(a) During any stage of an air pollution episode as defined in RCW 70.94.710 through 70.94.730; or

(b) Containing any rubber products, asphalt products, paints, crackcase oil, or petroleum wastes, plastics, garbage, dead animals or any waste other than natural vegetation that emits dense smoke or creates offensive odors when burned; or

(c) For the purpose of salvage or reclamation of materials. (Amendment II)

(2) It shall be prima facie evidence that the person who owns or controls property on which an open fire occurs has allowed or used said open fire. (Amendment II)

SECTION 5.02 VISIBLE EMISSION

(1) During a period of five (5) years from the effective date of this regulation, no person shall cause or allow the emission of any air contaminant for a period or periods aggregating more than three minutes in any one hour, which is:

(a) Equal to or darker in shade than that designated as No. 2 (40% density) on the Ringelmann Chart as published by the United States Bureau of Mines; or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke shade No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines.

(c) Provided, however, that when the fuel burning equipment is a power boiler or boiler using hog-fuel and an emission occurs, that is due to conditions beyond the control of the owner or operator, the emission may be darker than that designated as No. 2 (40% density) but not as dark as that designated as No. 3 (60% density) on the Ringelmann Chart for a period or periods aggregating not more than six minutes in any one hour; provided that the operator shall take immediate action to correct the condition.

(2) On and after five (5) years from the effective date of this regulation, no person shall cause or allow the emission of any air contaminant for a period or periods aggregating more than three minutes in any one hour which is:

(a) Equal to or darker in shade than that designated as No. 1 (20% density) on the Ringelmann Chart as published by the United States Bureau of Mines; or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke shade No. 1 on the Ringelmann Chart as published by the United States Bureau of Mines.

(3) No person shall hereafter sell or install within the jurisdiction of the Yakima County Clean Air Authority any air contaminant source in which the air contaminant emitting therefrom cannot be restricted to the standard set forth in Paragraph 5.02 (2), supra.

(4) In the case of orchard heating devices the first one-half (1/2) hour after such device is ignited shall not be considered in determining whether or not the opacity of the emission from such orchard heating device is as described in Section 5.02 (1) or Section 5.02 (2).

(5) No person shall allow, cause, let, permit or suffer the emission, of particles of such size and nature as to be visible individually as particles in sufficient number to be injurious to human health, plant or animal life, or property or which unreasonably interefere with the enjoyment of life and property. This subsection shall apply only if such particles fall on real property other than that of the person responsible for the emission.

(6) The density or opacity of an air contaminant shall be measured at the point of its emission, except when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission.

(7) This section shall not apply when the presence of uncombined water is the only reason for the failure of the emission to meet the requirements of Subsection (2) (b) and (3) (b).

SECTION 5.03 INCINERATOR AND REFUSE BURNING EQUIPMENT

(1) No person shall burn any combustible refuse in any incinerator within the boundaries of the Authority except in a multiple chamber incinerator equipped with emission control apparatus, or in equipment found by the Control Officer in advance of such use to be equally effective for the purpose of air pollution control.

(2) It shall be unlawful for any person to cause or permit the operation of refuse burning equipment at any time other than daylight hours of the same day, except with the approval of the Control Officer. Approval of the Control Officer for the operation of such equipment may be granted upon the sumbission of a written notice stating:

(a) The full name and address of the applicant; and

(b) The location of the refuse burning equipment; and

(c) A brief description of the refuse burning equipment and its control apparatus; and

(d) Good cause for the issuance of such approval; and

(e) The hours other than daylight hours during which the applicant seeks to operate the equipment; and

(f) The length of time for which the exception is sought.

SECTION 5.04 ODOR CONTROL MEASURES

(1) All air contaminant sources emitting odor bearing gases and odor bearing particulate matter shall be operated or controlled in such a manner as to eliminate as far as practicable noxious odors. Proven technological improvements, to the extent that the same are economically feasible shall be incorporated in such air contaminant sources to reduce the emission of noxious odors in the ambient air.

SECTION 5.05 PREVENTIVE MEASURES

(1) No person shall cause, let, allow, permit or suffer particulate matter to be stored, handled or transported without taking reasonable precautions to prevent air pollution.

(2) No person shall cause, let, allow, permit or suffer a building or its appurtenances or a road to be constructed, altered, repaired or demolished without taking reasonable precautions to prevent air pollution.

(3) It shall be unlawful for any person to willfully cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminants emitted, conceals an emission of air contaminant which would otherwise violate Article V of this regulation.

(4) It shall be unlawful for any person to cause or permit the installation or use of any device or use of any means designated to mask the emission of an air contaminant which causes detriment to health, safety, or welfare of any person.

(5) Nothing in this Regulation shall be construed to impair any cause of action or legal remedy therefore of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

SECTION 5.06 EXCEPTIONS TO ARTICLE V

The following are excepted from Article V:

(1) Reported Breakdown - Emissions exceeding any of the limits established by this Regulation as a direct result of unavoidable upset conditions or unavoidable and unforeseeable breakdown of equipment or control appratus shall not be deemed in violation provided the following requirements are met:

  (a) The upset or breakdown is immediately reported to the Authority.

  (b) The person responsible shall upon the request of the Control Officer submit a full report including the known causes and the preventive measures to be taken to minimize or eliminate a re-occurrence.

(c) The person responsible for such emissions shall proceed to correct the conditions causing such emissions to exceed the limits set by these regulations.

(2) Domestic Housing - Fuel burnining equipment used exclusively in connection with any structure, which structure is used exclusively as a dwelling for not more than three (3) families.

ARTICLE VI

VARIANCES AND EXEMPTIONS

SECTION 6.01 VARIANCES

(1) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment, including a group of persons who own or control like processes or like equipment may apply to the Board for a variance from the rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing and due notice, if it finds that:

(a) The emissions occurring or proposed to occur do not endanger public health or safety; and

(b) Compliance with the rules and regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges and the general public.

(3) Any variance or renewal thereof shall be granted within the requirements of Subsection (a) and for time periods and under conditions consistent with the reasons therefore, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternative measures that the Board may prescribe.

(b) If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable times as, in the view of the Board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(c) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than provided for in item (a) and (b) of this sub-paragraph, it shall be for not more than one year.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board may obtain judicial review thereof only under the provisions of the Washington Clean Air Act.

(6) Nothing in this section and no variances or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provision, and procedures of Section 57 of the Washington Clean Air Act to any person or his property.

SECTION 6.02 EXEMPTIONS

This Regulation shall not apply to the following:

(1) Small outdoor fires for pleasure, religious, ceremonial smoking or like social purposes; (Amendment II)

(2) Fires from flares, torches, wastes, gas burners, incense burners, and insect ports; (Amendment II)

(3) Fires abating a forest fire hazard, to prevent a fire hazard, for instruction of public officials in methods of forest fire fighting, and any silvicultural operation to improve forest, lands, where and when permitted by the State Department of Natural Resources under RCW 70.94.650 through RCW 70.94.700;

(4) Fires for instruction in the method of fighting fires, testing fire resistant materials, or testing fire protection equipment provided prior written approval has been issued by the Control Officer of the Board. (Amendment II)

(5) After date of adoption of these regulations all agricultural burning, including burning of weeds and cereal stubble, and including burning for pest and disease control shall be permitted only as authorized by permit from the Air Pollution Control Authority except that this restriction on agricultural burning set forth herein shall not apply and permit shall not be required for fires of one acre or less, limited to the purpose of destroying noxious weeds, orchard and vineyard prunings, or crop residue along fence rows, ditches, waterways and cultivated fields, provided that such fires shall be subject to the provisions of Section 6.03, Subsections 2, 3 and 5 of this Amendment to the Yakima County Clean Air Authority, Regulation No. 1, and further that the burning procedure shall be used to insure good combustion and minimize smoke and adverse effects on the air quality. It is further provided that the provision herein permitting fires on parcels of land one acre in size or less shall not be construed to permit the accumulation of weeds or crop residue from larger parcels of land to be burned on parcels one acre in size or less. That provision, as herein contained, shall apply to burning on such small parcels of weeds and crop residue as have naturally accumulated there or remain after harvest.

253

(6) Residential Burning: Residential burning as herein defined shall be permitted provided that: (Amendment II)

(a) Only one pile shall be burned at a time and each pile shall be extinguished before another is ignited;

(b) No burning is to be conducted within 50 feet of an inhabited structure.

(7) Burning for land clearing is authorized without permit provided that: (Amendment II)

(a) It is conducted outside of restricted areas as defined in these Regulations;

(b) Burning is not conducted within less than 100 yards of an inhabited structure other than that located on the property in which the burning is conducted;

(c) The material shall be placed on the fire in such a manner so that dirt will not be included and dumped on the fire;

(d) Burning other than the above exceptions may be done only upon permit issued by the Control Officer under restrictions approved by the Board.

(8) Burning: Burning of Pesticide and Herbicide Containers: Burning of agricultural pesticide and herbicide containers by land owners and commercial applicators shall be permitted provided: (Amendent II)

(a) Such burning is not conducted within 100 yards of an inhabited structure other than that located on the property on which the burning is conducted;

(b) Such container shall not be burned if it is made of plastic materials or if the manufacturer's recommendations are that such container be not burned and such containers shall not be burned when other regulations or statutes, either State or Federal, prohibit the burning thereof.

(9) Other Burning: Fires for disposal of waste materials other than that defined above, provided the authority has determined that no alternate means of disposal is reasonably available and further provided, (Amendment II)

(a) That prior written approval has been issued by the Control Officer or the Board;

(b) That the burning is conducted at such times and under such conditions as may be established by the Control Officer or the Board.

(10) Open fires for orchard heating purposes are prohibited except that orchard heating devices and materials using open fire or open flame systems may be used if the visible emissions from such open fire or open flame systems do not exceed the limitations on visible emissions as set forth in Section 5.02 of this Regulation. This exception shall not be construed to permit the burning in an open fire of any material containing asphalt, petroleum products, paints, rubber products, plastics or any substance which normally emits dense smoke or obnoxious odors. (Amendment I)

SECTION 6.03 ADDITIONAL RESTRICTIONS ON OPEN BURNING

(1) All burning within exemptions of Section 5, 6, 7, and 8 of Section 6.02 of this Regulations shall be conducted between the hours of sunrise and sunset, except that burning for pest or disease control or for land clearing purposes, and of which the combustible material consists primarily of wood more than 12 inches in diameter, may be conducted after sunset, but such fires shall not be fed after 12:00 noon on any day they are ignited. For the purposes of this provision, a fire shall be deemed to be out and extinguished when there is not visible flame coming from the fire. (Amendment II)

(2) No open burning shall be conducted when an air stagnation advisory has been issued by the Washington State Department of Ecology. (Amendment II)

(3) No open burning shall be conducted when the Control Officer, acting on guidelines for air quality control which are hereafter to be established by the Board, has prohibited such burning. (Amendment II)

(4) No burning, shall be conducted after the Control Officer has imposed limitations on such burning by reason of adverse weather conditions as are defined in Subsection 2, 3, and 5 hereof, and has given public notice of such restriction. Notice will be deemed sufficient to the public for all purposes of these Regulations after twelve hours have elapsed from the time such notice has been delivered to and published by a newspaper of general circulation in the area where such limitation applies or has been delivered to, and broadcast by, a radio or television station serving such area. (Amendment II)

(5) No open fires shall be ignited during any stage of an air pollution episode and any person or entity responsible for an open fire shall immediately proceed to extinguish such ifre when notified of the existence of an air pollution episode by any of the means set forth in Paragraph 4 above (Amendment II)

(6) Any person responsible for fires set in accordance with this Section must abide by all rules and procedures set by other agencies providing any jurisdiction over the practice of open burning. (Amendment II)

ARTICLE VII

PENALTY AND SEVERABILITY

SECTION 7.01 PENALTY FOR VIOLATION

(1) Any person who violates any of the provisions of this regulation other than Section 2.03, shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00), or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(2) Any person who willfully violates Section 2.03 shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00), or by imprisonment for a term of not more than one year or by both fine and imprisonment.

SECTION 7.02 ADDITIONAL OR ALTERNATIVE PENALTIES

In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of these regulations shall incur a penalty in the form of a fine in an amount not to exceed Two Hundred Fifty Dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Hearing Board. The hearing shall be conducted pursuant to the provisions of Chapter 34.04 RCW. If the amount of such penalty is not paid to the Board within fifteen (15) days after receipt of notice imposing the same, and a request for a hearing has not been made, the Attorney General, upon the request of the Executive Director or the attorney for the Authority, shall bring action to recover such penalty in the Superior Court of the County in which the violation occurred. All penalties recovered under this section by the Authority shall be paid into the treasury of the Authority and credited to its funds.

To secure the penalty incurred under this section, the Authority shall have a lien on any vessel used or operated in violation of these regulations which shall be enforced as provided in RCW 60.36.050.

SECTION 7.03 ASSURANCE OF DISCONTINUANCE

As an additional means of enforcing these regulations, the Board may accept an assurance of discontinuance of any act or practice deemed in violation of this regulation, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of these regulations, or order issued pursuant hereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from the Superior Court as provided in RCW 70.94.425.

SECTION 7.04 RESTRAINING ORDER - INJUNCTIONS

Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constiture or will constitute a violation of any provision of these regulations or order issued thereunder, the Board, after notice to such person and an opportunity to comply, may petition the Superior Court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

SECTION 7.05 SEVERABILITY

If any phrase, clause, subsection, or section of this regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of Directors would have enacted this regulation without the phrase, clause, subsection, or section so held unconstitutional or invalid and the remainder of the regulation shall not be affected as a result of said part being held unconstitutional or invalid.

SECTION 7.06 EFFECTIVE DATE

The effective date of these regulations shall be January 1, 1971.

REGULATION I

SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY

REGULATION I

ARTICLE I

POLICY, SHORT TITLE, AND DEFINITIONS

SECTION 1.01 POLICY

The Spokane County Air Pollution Control Authority, co-extensive with the boundaries of Spokane County, having been activated by the Washington Clean Air Act, RCW 70.94 as amended, adopts the following Regulations to control the emission of air contaminants from all sources within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of the Washington Clean Air Act.

It is hereby declared to be the public policy of the Spokane County Air Pollution Control Authority to secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, promote the economic and industrial development of the County and enhance the recreational potential within the County.

SECTION 1.02 NAME OF AUTHORITY

The name of the County Air Pollution Control Authority, co-extensive with the boundaries of Spokane County, shall be known as the "SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY".

SECTION 1.03 SHORT TITLE

This regulation shall be known and cited as "Regulation I of the Spokane County Air Pollution Control Authority".

SECTION 1.04 GENERAL DEFINITIONS

When used in Regulation I of the Spokane County Air Pollution Control Authority:

(a) Agriculture Operation means the growing of crops, the raising of fowl, amimals, or bees as a gainful occupation.

(b) Air Contaminant means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance or any combination thereof.

(c) Air Pollution means the presence in the outside atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to public welfare; to human, plant, or animal life, or to property; or which unreasonably interferes with enjoyment of life and property.

(d) Ambient Air means the surrounding outside air.

(e) Authority means Spokane County Air Pollution Control Authority.

(f) Board means Board of Directors of the Spokane County Air Pollution Control Authority.

(g) Combustion means the rapid exothermic reaction of any material with oxygen.

(h) Control Equipment means any equipment which has the primary function of regulating or controlling the emission from a process, fuel burning or refuse burning equipment and thus reduces the formation of or the emission of air contaminants into the atmosphere, or both.

(i) Control Officer means Air Pollution Control Officer for the Spokane County Air Pollution Control Authority.

(j) Emission means a release into the outdoor atmosphere of air contaminants.

(k) Fire Department means a fire control agency such as City Fire Departments, County Fire Department, local fire control districts or the Washington State Department of Natural Resources.

(l) Garbage means putrescible animal or vegetable waste resulting from the handling, preparation, cooking and serving of food.

(m) Incinerator means any article, machine, equipment, contrivance, structure or part of a structure capable of withstanding heat and designed to reduce the solid, semi-solid, or liquid by combustion.

Incinerator-Multiple Chamber means any incinerator consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

(n) Motor Vehicle means equipment propelled by an internal combustion engine in or upon which people or material may be transported on the ground.

(o) Odor means that property of a substance which allows its detection by the sense of smell.

(p) Open Fire or Outdoor Fire means a fire where any material is burned in the open or in a receptable other than a furnace, incinerator, or other equipment connected to a stack or chimney.

(q) Particulate Matter means any material except uncombined water that exists in a finely-divided form as a liquid or solid at standard conditions of temperature (60°F) and pressure (14.7 pounds per square inch absolute).

(r) Person means any individual, public or private corporation, political sub-division, board, department, or bureau of municipality, partnership, association, trust, estate or other legal entity whatsoever, which is recognized by law as the subject of rights and duties, or any officer or employee of any of the foregoing.

(s) Refuse means putrescible and non-putrescible solid wastes including garbage, rubbish, ashes, incinerator residue, dead animals, abandoned automobiles, solid market wastes, street cleaning, and solid commercial and industrial waste (including waste disposal in industrial salvage).

(t) Ringelmann Smoke Chart means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

(u) Salvage Operation means any operation conducted in whole or in part, for the salvaging or reclaiming of any product or material.

(v) Smoke means small gas-borne, particles, other than water generated from combustion processes, in sufficient number to be observable.

(w) Stack means duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air contaminants.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01 POWERS AND DUTIES OF THE BOARD

Pursuant to the provisions of the "Washington Clean Air Act" RCW 70.94, the Board shall establish such procedures and take such action as may be required to implement Section 1.01 of this Regulation consistent with the State Act and other applicable laws. The Board may take such action as may be necessary to prevent air pollution including control and measurement of the emission of air contaminants from a source. The Board shall appoint a Control Officer competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of this Regulation and all ordinances, orders, resolutions, or rules and regulations of this Authority pertinent to the control and prevention of air pollution in this county.

The Board shall have the power to hold hearings relating to any aspect of or matter in the administration of this Regulation and in connection therewith issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath.

The Board shall have the power to adopt, amend and repeal its own ordinances, resolutions, or rules and regulation. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, or rules and regulations shall be made, after due consideration at a public hearing held in accordance with Chapter 42.32 RCW, and shall have the same force and effect as all other of the Board's ordinances, resolutions, or rules and regulations as soon as adopted by the Board. (See RCW 70.94.141).

SECTION 2.02 CONTROL OFFICER'S DUTIES AND POWERS

(a) The Control Officer and/or his authorized agents shall observe and enforce the provisions of the State Law and all orders, ordinances, resolutions or rules and regulations of the Authority pertaining to the control and prevention of air pollution pursuant to the policies set down by the Board.

(b) The Control Officer, with the approval of the Board, shall have the authority to appoint and remove such employees as are necessary to the performance of the duties assigned to him and to incur necessary expenses within the limitations of the budget.

(c) The Control Officer shall maintain appropriate records and submit reports as required by the Board, the State Board and the appropriate Federal Agencies.

(d) The Control Officer may engage, at the Authority's expense, within the limitation of the budget, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from any source within the Authority's jurisdiction.

(e) For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representatives shall have the power to enter, at reasonable times, upon any private or public property, excepting equipment specifically excepted in Section 6.09 of this Regulation. No person shall refuse entry or access to the Control Officer or his duly authorized representative who request entry for the purpose of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection. (RCW 70.94. 200)

(f) If the Control Officer or an authorized employee of the Authority during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized employee of the Authority shall give a receipt to the owner or lessee for the sample obtained.

(g) The Control Officer shall be empowered by the Board to sign official complaints or issue citations or initiate court suits or use other legal means to enforce the provisions of this Regulation.

SECTION 2.03 CONFIDENTIAL INFORMATION

Whenever any records or other information furnished to or obtained by the Authority, pursuant to any sections in RCW 70.94 relate to processes or production unique to the owner or operator, or is likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Authority. (RCW 70.94.205)

SECTION 2.04 VIOLATIONS

(a) Whenever the Board or Control Officer has reason to believe that any provision of the State Law or any ordinance, regulation, rule or order relating to the control or prevention of air pollution has been violated, he may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of the State Law or of this Regulation alleged to be violated and the facts alleged to constitute a violation thereof and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order the Control Officer may require that the alleged violator or violators appear before the Board for a hearing at a time and place specified in the notice given at least fifteen (15) days prior to such a hearing and answer the charges complained of, or in addition to or in place of an order or hearing, the Board or Control Officer may initiate action pursuant to RCW 70.94.425, RCW 70.94.430 and RCW 70.94.435. (RCW 70.94.211)

(b) The Control Officer may, in place of an order or hearing after service of a notice of violation and expiration of reasonable period of time without correction, request the County Prosecutor to prosecute a criminal action against the violator.

SECTION 2.05 ORDERS AND HEARINGS

(a) Any order issued by the Board or by the Control Officer, which is not preceeded by a hearing, shall become final unless, no later than twenty days after the date the Notice and Order are served, the person aggreved by the Order petitions for a hearing before the Board. Upon receipt of the petition, the Board shall hold a hearing pursuant to Chapter 34.04 RCW as now or hereinafter amended.

(b) If, after a hearing held as a result of a petition to the Authority by a person aggrieved by an order the Board finds that a violation has occurred or is occurring, it shall affirm or modify the order previously issued, or if the finding made is that no violation has occurred or is occurring, the order shall be rescinded. If, after a hearing held in lieu of an order the Board finds that a violation has occurred or is occurring, it shall issue an appropriate order or orders for the prevention, abatement or control of the emissions involved or for the taking of such other corrective actions as may be appropriate. Any order issued as part of a notice or after hearing may prescribe time-tables for necessary action in preventing, abating, or controlling the emissions.

(c) Any hearings held under this section shall be conducted in accord with RCW 34.04.090 through 34.04.130 as now or hereinafter amended.

SECTION 2.06 APPEALS FROM BOARD ORDERS, JUDICIAL REVIEW

Any order issued by the Board after a hearing shall become final unless no later than thirty (30) days after the issuance of such order, a petition requesting judicial review is filed in accordance with the provisions of Chapter 34.04 RCW as now and hereinafter amended.

SECTION 2.07 STATUS OF ORDERS OR APPEAL

(a) Any order of the Board or the Control Officer shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing the Superior Court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

(b) Nothing in this Regulation shall prevent the Board or Control Officer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means. (RCW 70.94.223)

SECTION 2.08 FALSIFICATION OF STATEMENT OR DOCUMENT, UNLAWFUL ALTERATION OF DOCUMENTS, DISPLAY OF DOCUMENTS, AND THEIR REMOVAL OR MULTILATION PROHIBITED

(a) No person shall willfully make a false or misleading statement to the Board as to any matter within the jurisdiction of the Board.

(b) No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate or other paper issued by the Agency if the purpose of such reproduction or alteration is to evade or violate any provision of this Regulation or any other law.

(c) Any order or registration certificate required to be obtained by this Regulation shall be available on the premises designated on the order or certificate.

(d) In the event the Authority requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the Board.

SECTION 2.09 SERVICE OF NOTICE

(a) Service of any written notice required by this Regulation shall be made on the owner or lessee of equipment, or his agent as follows:

(1) Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent, at the address listed on his application or order or registration certificate or at the address where the equipment is located, by United States Certified Mail, return receipt requested, or

(2) By leaving the notice with owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, then a member of the partnership or other concerned or with an officer or managing agent of the corporation.

(b) Service of any written notice required by this Regulation shall be made to the Authority as follows:

(1) Either by mailing the notice in a prepaid envelope directed to the Authority at its office, by United States Certified Mail, return receipt requested, or

(2) By leaving the notice at the Authority office with an employee of the Authority.

SECTION 2.10 SEVERABILITY

If any phrase, clause, subsection or section of this Regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of Directors would have enacted the Regulation without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the Regulation shall not be affected as a result of said part being held unconstitutional or invalid. (RCW 70.94.911)

SECTION 2.11 PENALTIES

(a) Any person who violates any provision of this Regulation shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation. (RCW 70.94.430)

(b) Any person who violates Section 2.03 (Confidential Information) of this Regulation shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.) or more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment.

(c) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules or regulations of the State Board shall incur penalty in the form of a fine in an amount not to exceed $250./day for each violation. Each such violation shall be a separate and distinct offense and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Board. The hearing shall be continued pursuant to the provisions of Chapter 34.04 RCW. If the amount of such penalty is not paid to the Board within 15 days after receipt of notice enclosing the same and a request for a hearing has not been made, the attorney general upon request of the attorney for the Authority shall bring an action to recover such penalty in the Superior Court in the County of which the violation occurred.

SECTION 2.12 RESTRAINING ORDER - INJUNCTION - OTHER COURT ORDER

Notwithstanding the existence or use of any other remedy whenever any person has engaged in, or is about to engage in, acts or practices which constitute or will constitute a violation of any provision of this Regulation or any rule, regulation or order issued by the Board of the Control Officer or his authorized agent, the Board, after notice to such person and an opportunity to comply, may petition the County Superior Court for a restraining order or a temporary or permanent injunction or another appropriate order. (RCW 70.94.425)

ARTICLE III

VARIANCES, WHEN PERMITTED

(a) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment, including a group of persons who owns or controls like processes or like equipment, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration, or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:

(1) The emissions occurring or proposed to occur do not endanger public health or safety; and

(2) Compliance with the rules or regulations from which variances is sought would produce serious hardship without equal or greater benefits to the public.

(b) No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(c) Any variance or renewal thereof shall be granted within the requirements of Subsection A and for a time period and under conditions consistent with the reasons therefore, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternate measure that the Board may prescribe.

(2) If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable times as, in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of the necessary measures. A variance granted on the

ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Item 1 and 2 it shall be for not more than one (1) year.

(d) Any variance granted pursuant to this action may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of any application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.

(e) A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. Any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board, may obtain judicial review thereof only under the provisions of the Washington Clean Air Act.

(f) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.415 of the Washington Clean Air Act to any person or his property. (RCW 70.94.181)

ARTICLE IV

REGISTRATION

SECTION 4.01 REGISTRATION REQUIRED

The classes of air contaminant sources listed in Exhibit "R" which is listed below and made a part hereof, as now constituted or as hereafter amended, shall be registered with the Authority by January 1970.

SECTION 4.02 GENERAL REQUIREMENTS FOR REGISTRATION

(a) Registration of an installation shall be made by the owner or lessee of the source, or his agent, on forms furnished by the Authority. The owner of the source shall be responsible for registration and the correctness of the information submitted.

(b) A separate registration shall be required for each source of contaminant, provided that, an owner has the option to register a process with a detailed inventory of contaminant sources and emissions related to said process; provided further that, an owner need not make a separate registration for identical units of equipment or control apparatus installed, altered or operated in an identical manner on the same premises.

(c) Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee.

EXHIBIT R

(a) Fuel-burning equipment which:

  (1) Is in multiple-family dwellings serving 5 or more families.

  (2) Has a BTU input of more than 400,000 BTU per hour.

(b) Packers and mixers of agricultural chemical (fertilizer concentrates, etc.).

(c) Asphalt and asphalt products.

(d) Bedding manufacturers.

(e) Brick and clay products (tiles, etc.).

(f) Concrete product manufacturers and ready mix.

(g) Casting and foundries.

(h) Mills, seed, feed and flouring.

(i) Lumber mills.

(j) Mill products (cabinet works, casket works, and wood by-products).

(k) Paper manufacturers.

(l) Meat packers.

(m) Rendering plants.

(n) Sand and gravel, and pre-mix.

(o) Salvage operations (scrap metal, junk).

(p) Automobile wrecking yards and fragmentizers.

(q) Paint shops.

(r) Sandblasting (except wet abrasive).

(s) Contractors - including house and building wreckers, excavation.

(t) Spraying, commercial.

(u) Plastic fabrication.

(v) Insulation manufacturer.

(w) Incinerators.

(x) Tire recappers.

(y) Metal plating.

(z) Furnace and flue cleaners.

(zl) Quarries - Stone working.

ARTICLE V

NOTICE OF CONSTRUCTION

(a) No person shall construct, install or establish a new air contaminant source, except those sources excluded in Section 6.09 of this Regulation, without first filing a notice of construction. Within thirty (30) days of the receipt of such notice the Board or Control Officer may require, as a condition precedent to the construction, installation or establishment of the air contaminant source or sources covered thereby, the submission of plans, specifications, and such other information as it deems necessary in order to determine whether the proposed construction, installation or establishment will be in accord with applicable rules and regulations in force pursuant to the Article. If within thirty (30) days of the receipt of plans, specifications or other information required pursuant to this Article the Board or Control Officer determines that the proposed construction, installation or establishment will not be in accord with this Article or the applicable ordinances, resolutions, rules and regulations adopted pursuant thereto, it shall issue an order for the prevention of the construction, installation or establishment of the air contaminant source or sources. Failure of such order to issue within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed: PROVIDED THAT, it is in accordance with the plans, specifications or other information, if any, required to be submitted.

(b) For the purposes of this Article, addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction or installation or establishment of a new air contaminant source.

(c) Nothing in this Article shall be construed to authorize the Board or Control Officer to require the use of emission control equipment or other equipment, machinery or devices of any particular type, from any particular supplier, or produced by any particular manufacturer.

(d) Any features, machines and devices constituting parts of or called for by plans, specifications or other information submitted pursuant to Subarticle (a) hereof shall be maintained in good working order.

(e) The absence of an ordinance, resolution, rule or regulation, or the failure to issue an order pursuant to this Article shall not relieve any person from his obligation to comply with this Regulation or with another provision of law.

ARTICLE VI

EMISSIONS PROHIBITED

SECTION 6.01 OPEN FIRES

(a) It shall be unlawful for any person to ignite, cause to be ignited, permit to be ignited, suffer, allow or maintain any open fire within the jurisdiction of the Authority, except for the following:

(1) Fires set for religious ceremonies, recreational purposes and the cooking of food for human consumption, provided no nuisance is created.

(2) Fires from flares, torches and waste gas burners.

(3) A Fire Chief, Fire Marshall or head of a local fire district may authorize a fire for:

(a) The disposal of dangerous materials, provided no alternate means of disposal is reasonably available.

(b) The prevention of a fire hazard, provided no alternate means of prevention is reasonably available.

(c) Instruction in the method of fighting fires or testing of fire resistive materials and fire-protective equipment.

(4) Any fire specifically exempt under RCW 70.94.250.

(5) Open fires may be allowed by permit only:

(a) Permits shall be available at local fire departments and local fire control district offices and shall be in force for one (1) year only.

(b) In areas where refuse service is available, either municipal or commercial, said permit shall be valid only for the burning of dry garden trimmings, tree clippings, lawn rakings, dry leaves and needles on the property where the material was generated and for periods not to exceed three (3) weeks in the spring and fall. The permit periods, to be designated by the Board or the Control Officer, shall be announced by public notice. Provided that no burning shall be allowed nor any burning permits issued in the area designated by the Board as a no-burn area.

(c) Only the materials noted herein shall be burned. The presence of any other material in an open fire shall constitute a violation and the person who owns or controls the property on which said violation occurs shall be subject to revocation of the permit, shall be required to extinguish the open fire and shall be subject to the penalties as set forth in Section 2.11 of this Regulation.

(d) Open fires permitted under this section shall be limited by the imposition of the following conditions:

(i) Burning only during daylight hours.

(ii) Outside fires shall be set only after a ventilation advisory from the local office of the U.S. Weather Bureau indicates that dispersion weather exists and there will not be entrapment of pollutants.

(iii) Such fires shall not interfere with any other person's health, safety and comfort.

(iv) All open fires shall comply with the laws, rules and regultions of the local fire department and all other governmental agencies who might have jurisdiction over such open fires.

(e) In rural agricultural areas where regular refuse service is not available open burning of household refuse shall be permitted, PROVIDED THAT:

(i) No garbage shall be burned.

(ii) No dead animals shall be disposed of by burning.

(iii) No material containing asphalt, petroleum products, paints, rubber products, plastic or any substance which normally emits dense smoke or obnoxious odors shall be burned.

(iv) Such fires shall not be located closer than 500 feet to any neighboring habitable dwelling nor shall smoke from such fires obscure public roadways.

(v) Open burning under this subsection shall be subject to the same limitations as all other open fires and the violations of these limitations shall subject the person who owns or controls the property on which the open fire takes place to the penalties set forth in Section 2.11 of this Regulation.

(6) If it becomes apparent at any time to the Control Officer that limitations need to be imposed to reduce smoke and prevent air pollution and/or protect property and the health, safety and comfort of persons from the effects of the burning, the Board, the Control Officer or his authorized agent shall notify the permittee and any limitation so imposed shall be treated as conditions under which the permit is issued.

(7) All open fires are prohibited and no person shall cause or allow any outdoor fire during a forecast, alert, warning or emergency stage of an air pollution episode. (These conditions are defined in RCW 70.94.715)

(b) It shall be prima facie evidence that the person who owns or controls property on which an open fire, prohibited in this Regulation, occurs has caused or allowed said open fire.

SECTION 6.02 VISUAL EMISSIONS

(a) It shall be unlawful for any person to cause or allow the emission of any air contaminant into the outdoor atmosphere for an aggregate of more than three (3) minutes in any one-hour period which is:

(1) Equal to or darker in shade than designated as No. 2 (40% density) on the Ringelmann Chart as published by the United States Bureau of Mines, or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than smoke shade No. 2 described above.

(b) It shall be unlawful for any person to cause or allow the emission of air contaminant from equipment installed subsequent to the effective date of this Regulation for a period or periods aggregating more than three (3) minutes in any one-hour period:

(1) Which is equal to or darker in shade than that designated as No. 1 (20% density) on the Ringelmann Chart as published by the United States Bureau of Mines, or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than smoke shade No. 1 described above.

(c) The density or opacity of an air contaminant shall be measured at the point of its emission, except when the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission. The person taking the observation shall be a trained observer.

(d) This section shall not apply when the presence of uncombined water is the only reason for the failure of an emission to meet the requirements of this section. The burden of proof to establish the quantity of uncombined water in the emission shall lie with the owner or operator who is seeking to bring the emission from his equipment or process within the requirements of Sections 6.02A or 6.02B.

SECTION 6.03 INCINERATOR BURNING AND INCINERATION HOURS

(a) It shall be unlawful for any person to burn any combustible refuse in any incinerator within the jurisdiction of this Authority except in an approved multiple-chambered incinerator or in equipment found by the Control Officer in advance of such use to be equally effective for the purpose of air pollution control. The Control Officer may require the installation of additional control apparatus on an incinerator of approved design if he finds that it is not effectively controlling air pollution emissions or is the cause of legitimate complaints.

(b) It shall be unlawful for any person to cause or allow the operation of an incinerator at any time other than daylight hours except with the approval of the Control Officer.

(c) Approval of the Control Officer for the operation of an incinerator at other than daylight hours may be granted upon the submission of a written request stating:

(1) Full name and address of the applicant.

(2) Location of the incinerator.

(3) A description of the incinerator and its control equipment.

(4) Good cause for issuance of such approval.

(5) The hours, other than daylight hours, during which the applicant seeks to operate the equipment.

(6) The length of time for which the exception is sought.

SECTION 6.04 ODORS AND NUISANCES

(a) Effective control apparatus and measures shall be installed and operated to reduce odor-bearing gases and particulate matter emitted into the atmosphere to a reasonable minimum.

(b) The Board or Control Officer may establish reasonable requirements that the building or equipment be closed and ventilated in such a way that all the air, gas, and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.

SECTION 6.05 PARTICULATE MATTER AND PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

(a) It shall be unlawful for any person to cause or allow the discharge of particles in sufficient numbers to cause annoyance to any other person when deposited upon the real property of others, except as follows:

(1) Temporarily due to breakdown of equipment provided the breakdown is reported on the next regular working day and repairs are promptly made.

(2) The time period allowed by the Control Officer for an owner or operator to meet a compliance order.

(b) It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent the particulate matter from becoming airborne.

(c) It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

SECTION 6.06 EMISSION OF AIR CONTAMINANTS OR WATER VAPOR, DETRIMENT TO PERSONS OR PROPERTY

(a) It shall be unlawful for any person to cause or permit the emission of an air contaminant or water vapor, including an air contaminant whose emission is not otherwise prohibited by this Regulation, if the air contaminant or water vapor causes detriment to the health, safety, or welfare of any person or causes damage to property or business.

(b) Nothing in this Regulation shall be construed to impair any cause of action or legal remedy thereof or any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

SECTION 6.07 EMISSION OF AIR CONTAMINANT-CONCEALMENT AND MASKING RESTRICTED

(a) It shall be unlawful for any person to willfully cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate Sections 6.04, 6.05 and 6.06 of this Article.

(b) It shall be unlawful for any person to cause or permit the installation or use of any device or use of any means designated to mask the emission of an air contaminant which causes detriment to health, safety or welfare of any person.

SECTION 6.08 REPORT OF BREAKDOWN

(a) The owner or operator of a source which emits pollutants exceeding any of the limits established by this Regulation as a direct result of unavoidable upset conditions or unavoidable and unforeseeable breakdown of equipment or control apparatus may be exempt from penalties if:

   (1) The upset or breakdown is reported to the Authority on the next regular working day.

   (2) The owner or operator shall, upon request of the Control Officer, submit a report giving:

(a) The causes

(b) The steps to be taken to repair the breakdown, and

(c) A time schedule for the completion of the repairs.

(b) The Control Officer on receipt of a report (Subsection A.2) from the owner or operator describing a breakdown may:

(1) Allow continued exempt operation but only for a limited time period, after which the owner or operator will be required to comply with this Regulation or be subject to the penalties in Section 2.11. An exemption granted under this Section, 6.08, may be withdrawn if the exempt operation becomes a cause of complaints.

(2) Require that the plant curtail or cease operations until repairs are completed if the quantity of pollutants or the nature of the pollutants could cause damage.

SECTION 6.09 EXCEPTION TO THIS ARTICLE

The following equipment is excepted from this Article:

(1) Fuel-burning equipment used exclusively for space heating in a dwelling serving less than five (5) families.

REGULATION II

SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY

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ARTICLE I

POLICY, SHORT TITLE AND DEFINITIONS

SECTION 1.01 POLICY

The Spokane County Air Pollution Control Authority, co-extensive with the boundaries of Spokane County, having been activated by the Washington Clean Air Act, RCW 70.94 as amended, adopts the following Regulations to control the emission of air contaminants from all sources within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of the Washington Clean Air Act.

It is hereby declared to be the public policy of the Spokane County Air Pollution Control Authority to secure and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and to property, foster the comfort and convenience of its inhabitants, promote the economic and industrial development of the County and enhance the recreational potential within the County.

SECTION 1.02 NAME OF AUTHORITY

The name of the County Air Pollution Control Authority, co-extensive with the boundaries of Spokane County, shall be known as the "Spokane County Air Pollution Control Authority."

SECTION 1.03 SHORT TITLE

This regulation shall be known and cited as "Regulation II of the Spokane County Air Pollution Control Authority."

SECTION 1.04 GENERAL DEFINITIONS

When used in Regulation II of the Spokane County Air Pollution Control Authority:

(a) Agriculture Operation means the growing of crops, the raising of fowl, animals, or bees as a gainful occupation.

(b) Air Contaminant means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance or any combination thereof.

(c) Air Pollution means the presence in the outside atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to public welfare; to human plant, or animal life, or to property; or which unreasonably interferes with enjoyment of life and property.

(d) Ambient Air means the surrounding outside air.

(e) Authority means Spokane County Air Pollution Control Authority.

(f) Board means Board of Directors of the Spokane County Air Pollution Control Authority.

(g) Combustion means the rapid exothermic reaction to any material with oxygen.

(h) Control Equipment Means any equipment which has the primary function of regulating or controlling the emission from a process, fuel burning or refuse burning equipment and thus reduces the formation of or the emission of air contaminants into the atmosphere, or both.

(i) Control Officer means the Air Pollution Control Officer for the Spokane County Air Pollution Control Authority.

(j) Emission means a release into the outdoor atmosphere of air contaminants.

(k) Fire Department means a fire control agency such as City Fire Departments.

(l) Garbage means putrescible animal or vegetable waste resulting from the handling, preparation, cooking and serving of food.

(m) Incinerator means any article, machine, equipment, contrivance, structure, or part of a structure capable of withstanding heat and designed to reduce the solid, semi-solid, or liquid combustion.

Incinerator-Multiple Chamber means any incinerator consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

(n) Motor Vehicle means equipment propelled by an internal combustion engine in or upon which people or material may be transported on the ground.

(o) Odor means that property of a substance which allows its detection by the sense of smell.

(p) Open fire or Outdoor Fire means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.

(q) Particulate Matter means any material except uncombined water that exists in a finely-divided form as a liquid or other solid at standard conditions of temperature (60° F) and pressure (14.7) pounds per square inch absolute).

(r) Person means any individual, public or private corporation, political subdivision, board, department, or bureau of municipality, partnership, association, trust, estate or other legal entity whatsoever, which is recognized by laws as the subject of rights and duties, or any officer or employee of any of the foregoing.

(s) Refuse means putrescible and non-putrescible solid wastes including garbage, rubbish, ashes, incinerator residue, dead animals, abandoned automobiles, solid market wastes, street cleanings, and solid commercial and industrial waste (including waste disposal in industrial salvage).

(t) Ringelmann Smoke Chart means the chart published and described by the U.S. Bureau of Mines Information Circular 8333.

(u) Salvage Operation means any operation conducted in whole or part, for the salvaging or reclaiming of any product or material.

(v) Smoke Means small gas-borne particles, other than water generated from combustion processes, in sufficient number to be observable.

(w) Stack means duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air contaminants.

(x) Single Source means any equipment, device, duct, stack, chimney, or opening which discharges air or other gases into the outdoor atmosphere.

(y) Grain means a weight unit which is equivalent to 1/7000 of a pound.

(z1) Standard Condition means at a gas temperature of 60 degrees Fahrenheit and a gas pressure of 29.92 inches of mercury, absolute.

(z2) Combustion source means any equipment which has the primary function of fuel or refuse burning.

ARTICLE II

GENERAL PROVISIONS

SEVERABILITY AND PENALTY

SECTION 2.01 GENERAL PROVISIONS

The general provisions cited in Section 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 2.11, 2.12 of Regulation I shall apply to Regulation II.

ARTICLE III

VARIANCES WHEN PERMITTED

(a) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment, including a group of persons who owns or controls like processes or like equipment, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration, or extent or discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The board may grant such variance, but only after public hearing or due notice, if it finds that:

(1) The emissions occurring or proposed to occur do not endanger public health or safety; and

(2) Compliance with the rules or regulations from which variances is sought would produce serious hardship without equal or greater benefits to the public.

(b) No variance shall be granted pursuant to this section until the Board had considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(c) Any variance or renewal thereof shall be granted within the requirements of sub-section A for a time period and under conditions consistent with the reasons therefore, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternate measure that the Board may prescribe.

(2) If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable times as, in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Item 1 and 2, it shall be for not more than one (1) year.

(d) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.

(e) A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. Any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board, may obtain judicial review thereof only under the provisions of Chapter 34.04 RCW as now or hereafter

(f) Nothing in this section and no variance or renewal granted pursuant hereto shall be constructed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.415 of the Washington Clean Air Act to any person or his property. (RCW 70.94.181)

ARTICLE IV

EMISSIONS PROHIBITED

SECTION 4.01 PARTICULATE EMISSIONS - GRAIN LOADING RESTRICTIONS

It shall be unlawful for any person to cause or allow the emission of particulate matter into the atmosphere from any single source:

(a) Which is in excess of 0.1 grains per cubic foot of gas at standard conditions for non-combustion sources.

(b) Which is in excess of 0.1 grains per cubic foot of gas calculated to 12 % of carbon dioxide (CO_2) at standard conditions for combustion. sources.

SECTION 4.02 CONCEALMENT OR MASKING RESTRICTIONS

It shall be unlawful for any person to willfully cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of particulate matter discharged, conceals or dilutes the emissions which would otherwise violate Section 4.01 of this regulation.

SECTION 4.03 ANALYSIS AND TESTING REQUIREMENTS

(a) The requirements of Section 4.02 shall be measured in a manner which conforms with good engineering practice and is approved by the Control Officer or in accordance with modified procedures mutually agreed upon by the equipment owner or operator and the Authority. A copy of current approved test procedures shall be kept on file in the office of the Authority.

(b) The Control Officer or his authorized agent may obtain from the owner or lessee of an emission source such information or analysis as will disclose the nature, extent, or quantity of degree of air contaminants which are or may be discharged by such a source, and type of nature of control equipment in use, when such information or analysis is available or reasonably capable of being assembled.

(c) The Control Officer or his authorized agent may require that safe access and adequate sampling facilities be provided the Authority by the owner or lessee of an emission source to be tested. The Authority must give notice of at least fifteen (15) days to the owner of the source to be tested.

SECTION 4.04 MAXIMUM EMISSION RATE

It shall be unlawful for any person to cause or allow the discharge of particulate matter into the atmosphere from any single source which exceeds the rate of 40 pounds per hour.

ARTICLE V

BREAKDOWNS AND EXCEPTIONS

SECTION 5.01 REPORT OF BREAKDOWN

(a) The owner or operator of a source which emits pollutants exceeding any of the limits established by this Regulation as a direct result of unavoidable upset conditions or unavoidable and unforeseeable breakdown of equipment or control apparatus may be exempt from penalties if:

(1) The upset or breakdown is reported to the Authority on the next regular working day.

(2) The owner or operator shall, upon request of the Control Officer, submit a report giving:

(i) The causes

(ii) The steps to be taken to repair the breakdown, and

(iii) A time schedule for the completion of the repairs.

(b) The Control Officer on a receipt of a report (Subsection A.2) from the owner or operator describing a breakdown may:

(1) Allow continued exempt operation but only for a limited time period, after which the owner or operator will be required to comply with this Regulation or be subject to the penalties in Section 2.11 of Regulation I. An exemption granted under this Section 5.01 may be withdrawn if the exempt operation becomes a cause of complaints.

(2) Require that the plant curtail or cease operations until repairs are completed if the quantity of pollutants or the nature of the pollutants could cause damage.

SECTION 5.02 EXCEPTION TO THIS ARTICLE

The following equipment is exempt from this Article:

(1) Fuel-burning equipment used exclusively in a dwelling serving less than five (5) families.

REGULATION II

BENTON-FRANKLIN-WALLA WALLA AIR POLLUTION CONTROL AUTHORITY

PART D: OPEN BURNING

SECTION 12-010 PURPOSE

This part, for the control of open burning in Benton-Franklin, and Walla Walla Counties is adopted under the provisions of chapter 70.94 RCW, as amended, in order to:

(1) Minimize the impact of emissions from open burning.

(2) Establish rules and procedures by which open burning may be conducted.

(3) Encourage the development and use of alternate methods of disposal for combustible waste materials.

SECTION 12-020 APPLICABILITY

The provisions of this section shall apply to open burning except:

(1) Burning of field and turf grasses grown for seed (governed by chapter 18-16 WAC of state regulations).

(2) Open burning for activities subject to the permit issuing authority for the U.S. Forest Service within the forested area of Walla Walla County, except that episodal rules shall apply as outlined in section 12-035 below, and prohibited material may not be burned.

SECTION 12-030 DEFINITIONS

As used in this section:

(1) Agricultural open burning means open burning conducted as a part of any agricultural operation: but not including yard and gardening activities associated with a residence.

(2) Commercial open burning means open burning conducted as a part of a commercial or business operation, including land clearing; but not including agricultural open burning.

(3) Critical area means an area designated by the State Department of Ecology or the authority as an area exceeding or threatening to exceed any ambient air quality standard.

(4) Department means Department of Ecology.

(5) Episode means a period when meteorological conditions are likely to occur or do occur which reduce the effective volume of air into which air contaminants are introduced and may include forecast, alert, warning or emergency state as defined in RCW 70.94.715.

(6) Land clearing means the removal of structures, trees, shrubbery or other natural vegetation from a plot of land when such clearing is for the purpose of changing the use of the cleared land.

(7) Open burning means the combustion of material in the open or in a container with no provision for the control of such combustion or the control of emissions of the combustion products.

(8) Residential open burning means burning conducted on or immediately adjacent to a residence under supervision of the owner or tenant, for disposal of yard debris or natural vegetation. The premises of a residence includes the yard property immediately adjacent to the residence which is not devoted to agricultural use other than yard and gardening activities associated with the residence.

(9) Small fire means a fire not more than four feet in diameter nor more than four feet high.

(10) Silvicultural operation means the growing of trees for commercial or recreational use, including land preparation, planting, growing and harvesting of trees.

SECTION 12-035 EPISODES

Will be declared by the State Department of Ecology. All fire control authorities and news media will be immediately notified.

(1) No open fire shall be ignited during any stage of an episode.

(2) Any person or entity responsible for an open fire already ignited any stage of an episode is declared shall immediately proceed to extinguish the fire as soon as he learns of the existence of the episode. At the forecast such fires shall be extinguished by withholding any additional fuel from the fire during the alert stage or any succeeding stage, fires must be extinguished as quickly as possible by whatever means are best suited to this end.

(3) Fires shall not be left unattended even though weather conditions do not indicate possibility of an episodal occurrence.

(4) Permits shall be obtained from local fire authorities, who will withhold such during the episode, and cancel outstanding permits when an episode approaches.

SECTION 12-045 PROHIBITED MATERIALS

Except as provided in WAC 18-12-055, the following material shall not be burned in any open fire:

(1) Garbage

(2) Dead Animals

(3) Asphalt

(4) Petroleum products

(5) Paints

(6) Rubber products

(7) Plastics

(8) Any substance, which normally emits dense smoke or obnoxious odors

SECTION 12-055 EXCEPTIONS

There are no exceptions to the episode provisions WAC 18-12-035 and to section 12-035 of this regulation. Otherwise, exception to the provisions of this paragraph shall be made only as follows:

(1) Upon order of a duly authorized health officer, diseased animals and other infested material may be burned as required to prevent spreading of the infestation.

(2) Upon order of a fire protection agency and with prior concurrence of the board or the control officer, fires for the disposal of materials presenting any danger to life, property, or public welfare may be burned, provided no approved practical alternative method of disposal is available.

(3) Upon notification to the authority, fires authorized by a fire protection agency as necessary for training purposes may be burned.

(4) The following types of fires also may be burned subject to local fire regulations, provided that they do not contain prohibited materials as set forth in section 12-045.

  (a) Fires for recreational, religious, ceremonial, or for like social purposes.

  (b) Small fires set for hand-warming purposes on construction sites.

SECTION 12-065 RESIDENTIAL OPEN BURNING

(1) No open fire shall be conducted on the premises of any residence:

  (a) Within a critical area designated pursuant to section 12-095.

  (b) During any stage of an episode (see section 12-035).

(c) Which fire contains prohibited materials, as set forth in section 12-045.

(d) Which fire contains any material other than dry natural vegetation and wood wastes generated on the premises. (In outlying areas where there is a trash collection service, dry papers may be burned but no prohibited materials to be included.)

(e) Which fire is larger than the dimension for a small fire, (four feet in diameter and four feet high maximum).

(2) Small fires on the premises of a residence may be conducted for the purposes of disposing of natural vegetation and wood wastes generated on the premises provided that

(a) None of the provisions of subsection (1) of this section are violated.

(b) Such fires do not violate any regulations of a local fire protection agency or any local county or city ordinance or resolution pertaining to nuisance abatement.

SECTION 12-075 COMMERCIAL OPEN BURNING

(1) No permit shall be issued for commercial open burning and no commercial open burning shall be conducted:

(a) Within a critical area designated pursuant to section 12-095; the State Department of Ecology regulation.

(b) During any stage of an episode (see WAC 18-12-035).

(c) Which burning contains prohibited materials, as set forth in section 12-035 (1).

(d) Where an approved practical alternate method of disposal is readily available.

(2) No commercial open burning shall be conducted, without a permit from the local fire authority and concurrence of the Air Pollution Control Authority, within one mile of any incorporated city or town. Permits shall be withheld unless;

(a) None of the provisions of section 12-075 (1) would be violated upon burning and

(b) The applicant demonstrates that no approved practical alternate method of disposal is available; and

(c) The applicant demonstrates that burning as requested is reasonable and necessary to successfully carry out the enterprise the applicant is engaged in and

(d) The burning will not violate any regulations of a local fire protection agency designed to prevent or abate fire hazards nor provisions of any local or city ordinance or resolution pertaining to nuisances.

After July 1, 1975, no commercial open burning shall be conducted in any area without a variance issued under section 4-080 and such shall be so only if all of the requirements set forth above in this section are satisfied.

(3) Taking into consideration population concentration and local conditions affecting air quality, the authority shall condition authorizations hereunder to minimize air pollution insofar as practical; including but not limited to restricting the permissible hours of burning, restricting the size of fires, imposing requirements for good combustion practice, restricting burning to specified waste conditions.

SECTION 12-085 AGRICULTURAL OPEN BURNING

(1) No permit shall be issued for agricultural open burning and no agricultural open burning shall be conducted:

(a) Within a critical area designated pursuant to section 12-095; the State Department of Ecology regulations.

(b) During any stage of an episode (see section 12-035).

(c) Which burning contains prohibited materials, as set forth in section 12-035 (1).

(d) Which burning contains any material other than dry natural vegetation, dormant prunings, and wood wastes generated on the property which is the burning site or which was transported to the burning site by natural means.

(2) Except as provided in subsection (3) of this section, no agricultural open burning shall be conducted without a permit from the local fire department. Permits hsall be issued only if:

(a) None of the provisions of section 12-085 (1) would be violated upon the burning; and

(b) The applicant demonstrates that burning as requested is reasonable and necessary to successfully carry out the enterprise the applicant is engaged in; and

(c) The burning will not violate any regulations of a local fire protection agency designed to prevent or abate fire hazards nor provisions of any county or city ordinance or resolution pertaining to nuisances; and

(d) Alternatively, either:

  (i) The burning is necessary to control disease or insect infestation and alternate measures are not available:

  (ii) The burning is necessary for the development of physiological conditions conducive to increased crop yield and alternate means are not available:

  (iii) The applicant demonstrates that no approved practical alternate method of disposal is available. (see section 12-010).

  In making a determination under (d), (i), (ii) above, the authority will consult with the county extension agent.

(3) Agricultural open burning may be conducted without a permit in certain areas of the district where no fire protection is established if;

  (a) None of the provisions of section 12-085 (1) and (2) would be violated by the burning, and the burning is scheduled in coordination with the field board progarm of the nearest adjacent fire district.

  (b) The burning is for the purpose of destroying weeds or crop residue along fence rows, ditches or waterways: Or is for the purpose of destroying weeds or crop residue from cultivated fields of one acre of less.

(4) Taking into consideration population concentration and local conditions affecting air quality, the authority and local fire authorities will conditionally approve authorizations hereunder so as to minimize air pollution insofar as practicable, such limitations including but not limited to restricting the permissible hours for burning, restricting the size of fires, imposing requirements for good combustion practice, restricting burning to specified wind conditions.

SECTION 12-095 CRITICAL AREA DESIGNATION

(1) The State Department of Ecology will designate as critical areas those geographical areas where ambient air quality standards for suspended particulates established by WAC 18-40-030 are being exceeded or threaten to be exceeded. These designations will be based on monitoring data gathered at existing primary air monitoring stations and comprise such areas as may reasonably be included by modeling techniques.

(2) Upon receipt of such advice from the State Department of Ecology, the board will schedule public hearings on the proposed designations, and assemble relevant data including:

  (a) Whether the designation should apply to the entire district, or to parts of it.

  (b) Whether the designation should be seasonal or permanent.

  (c) Testimony regarding the over-all situation and detailed recommendations.

(3) The board will decide whether and what restrictions are to be applied and define the critical area. If the board and the State Department of Ecology cannot agree, the state has over-riding authority to designate the areas by rule making procedure, but only after another public hearing.

(4) No open burning shall be conducted in any designated critical area.

SECTION 12-120 SMOKE MANAGEMENT PROGRAMS

The authority will enter into arrangements with local (and particularly rural) fire departments for issuance of fire burning permits and coordination of the fires to conform to optimum smoke management principles, and to assure that no such burning is performed during episodes. These programs shall apply to:

(1) Alfalfa seed straw and chaff which is burned to control Chalcid Fly.

(2) Clover seed straw and chaff which is burned to control Chalcid Fly.

(3) Grain field stubble where the soil cannot absorb any more such material and where the county agricultural agent certifies that burning is required.

(4) Grass seed fields under the state program covered in WAC 18-16 insofar as the actual scheduling of the field burns requires coordination with other burning in the area. Collection of the fifty cents (50¢) per acre fee for the state research program will be handled by the authority as agent for the state, but actual permits will be issued by the Department of Ecology.

Fires and smoke management in the Umatilla National Forest and in a zone (2) miles along the forest boundary where the Forest Service provides fire protection will continue without change since the district ranger will receive adequate notice of episodes and related problems.

SECTION 12-130 NOTICE OF VIOLATION

The authority may issue a notice of violation to the person or entity responsible for the fire whenever any of the following occur.

(1) Conditions are violated under which the fire was authorized.

(2) Any open fire is ignited, or if ignited is not extinguished, when the person or entity responsible for the fire is aware that any air pollution episode stage has been declared.

(3) An open fire is ignited where, under this section, such fires are prohibited or where a permit is required and no such permit has been obtained.

(4) Prohibited materials are burned in an open fire. Procedures with respect to notices of violation shall be in accordance with RCW 70.94.332 and general regulation section 130.

SECTION 12-140 REMEDIES

Any violation of this part may be subject to any penalties or other remedy provided for in chapter 70.94 RCW.